1601/149.

A

CATALOGUE

OF

The LORDS of SESSION,

From the INSTITUTION of

The COLLEGE of JUSTICE,

In the year 1532.

WITH

HISTORICAL NOTES.

SUUM CUIQUE. — REPENDET POSTERITAS.

EDINBURGH:

Printed by SANDS, MURRAY, and COCHRAN.

MDCCLXVII.

BRUSSEL
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DOT

ADVERTISEMENT.

IN drawing up this Catalogue, the Publiſher has been aſſiſted by a manuſcript abridgement of the *Books of Sederunt*, or Records of the Court of Seſſion. It formerly belonged to Lord Pitmedden, one of the judges in the reign of Charles II. and was obligingly communicated by Mr Alexander Tait, Clerk of Seſſion.

THE date prefixed to the name of each judge before 1561, is *that* of his firſt appearance upon the *Books of Sederunt*, not *that* of his admiſſion: previous to 1561, the form of marking the day of admiſſion was not obſerved.

IT is probable, that, in this Catalogue, the ſame judges are ſometimes inſerted twice; firſt by their names, and then by their eccleſiaſtical dignity of Abbots. This, in particular, may be the caſe as to the Abbots of Lindores, Culroſs, and Pittenweem, who appear under thoſe deſignations, 5th March 1542-3.

As a firſt ſketch of this nature muſt be imperfect, the reader is requeſted to inform the printers of any additions or corrections which may occur on the peruſal of the Catalogue.

CORRECTIONS and ADDITIONS.

In the CATALOGUE.

p. 1. *note, for* Mr Robert Boyes, *read* Mr Arthur Boyes.

p. 4. *line* 3. *from the bottom, read thus.*

1566. May 29. Mr WILLIAM BAILLIE, P. Provand. Biſhop of Brechin *d.*

p. 5. *for* John ——— Commendator of Coldinghame, *read* John Maitland, *&c.*

p. 8. *between* Sir Andrew Fletcher *and* Mr Alexander Seton, *inſtead of the line there printed, inſert the two lines following,* viz.

1626. Feb. 14. Sir JAMES SKENE, P. Curriehill. Melros *pr.*

1626. Feb. 14. Sir Robert Spottiſwoode. New-Abbey. Curriehill *pr.*

p. 16. *for* 1724. June 4. Sir Gilbert Elliot, *read* 1726, &c.

In the NOTES.

p. 10. after *Ormiſtoune,* add, *in the room of Mr John Graham.*

p. 22. add, *Sir John Baird of Newbyth.*

He drew up Deciſions of the court of Seſſion, from November 1664 to February 1667. MS.

p. 24. *laſt line,* for *to the Acts,* read *on the Books.*

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A CATALOGUE OF The LORDS of SESSION,

From the INSTITUTION of The COLLEGE of JUSTICE,

In the year 1532.

[In this Catalogue, *Extr.* ſtands for *Extraordinary Lord*; *ſ* for *ſuperſeded*; *pr.* for *promoted*; *r* for *reſigned*; and *d* for *dead.*]

Date.	*Name.*	*Title.*	*Predeceſſor.*
1532. May 25.	ALEXANDER-MILNE, Preſident.	Abbot of Cambuſkenneth.	
———	Mr Richard Bothwell. [1.]	Rector of Eſkirk.	
———	Mr John Dingwall.	Prov. of Trinity, Edinb.	
———	Mr Henry Whyte. [2.]	Rector of Finevin.	
———	Mr William Gibſon.	Dean of Reſtalrig.	
———	Mr Thomas Hay.	Dean of Dunbar.	
———	Mr Robert Reid. *	Abbot of Kinloſſe.	
———	Mr George Ker.	Provoſt of Dunglaſs.	
———	Mr William Scot.	Balwerie.	

* In the original nomination, Mr Robert Chanwell and Mr Robert Boyes were inſerted. But the books of ſederunt bear, that in their abſence the Abbot of Kinloſſe, and the Provoſt of Dunglaſs, were choſen and admitted by the King. It does not appear that Mr Robert Chanwell or Mr Robert Boyes ever officiated.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1532. May 25.	Sir John Campbell. [3.]	Lundie.	
———	Sir James Colvill. [4.]	Eaſter Wemyſs.	
———	Mr Adam Otterburn.	Auldhame.	
———	Mr Nicol Crawfurd.	Oxengang.	
———	Mr Francis Bothwell.	———	
———	Mr James Lawſon.	———	
1532. May 27.	Mr James Foulis. [5.]	Collington.	
1537. Nov. 7.	Walter Lindeſay.	Lord St John.	
———	Sir Thomas Ereſkine.	Brechin.	
———	Mr Thomas Bannatyne.	———	
———	Mr Robert Galbraith. [6.]	Parſon of Spot.	
1537. Nov. 13.	Mr Henry Sinclair. [7.]	Dean of Glaſgow.	
1538. Nov. 14.	Mr Henry Balnavis. [8.]	Hallhill.	
———	Mr Thomas Scot.	Abbotſhall.	
1538. Dec. 10.	Mr John Letham. [9.]	Rector of Killcryſt.	
1539. Feb. 16.	William Ruthven. *Extr.*	Lord Ruthven.	
———	John Ereſkine. *Extr.*	Lord Ereſkine.	
———	D. Brithman.	———	
1539. March 2.	Mr Henry Lauder. [10.]	St Germains.	
1540. Nov. 19.	Mr John Sinclair. [11.]	Dean of Reſtalrig.	
———	Mr William Lamb.	Rector of Conveth.	
1541. July 2.	William Keith. *Extr.*	Earl Mariſchal.	
———	William Leſley. *Extr.*	Earl of Rothes.	
———	Mr George Durie.	Abbot of Dumferline.	
———	Mr Andrew Durie.	Abbot of Melroſs.	
———	Mr Donald Campbell.	Abbot of Cupar.	
———	Mr Gavin Hamilton.	Abbot of Kilwinning.	

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Date.	*Name.*	*Title.*	*Predeceſſor.*
1541. July 2.	Robert Maxwell. *Extr.*	Lord Maxwell.	
———	John Lindeſay. *Extr.*	Lord Lindeſay.	
1541. July 5.	Mr John Foulis.	Collington.	
1542. June 26.	Mr John Waddel.	Parſon of Fliſk.	
———	Dr John Gladſtaines. [12.]	———	
1542. March 5.	Mr David Strachan.	———	
———	Mr John Hamilton.	Abbot of Paiſley.	
———	———	Abbot of Lindores.	
———	———	Abbot of Culroſs.	
———	———	Abbot of Pittenweem.	
———	George Seton. *Extr.*	Lord Seton.	
———	Alexander Levingſton. *Extr.*	Lord Levingſton.	
———	James Ogilvie. *Extr.*	Lord Ogilvie.	
———	——— Stewart. *Extr.*	Lord Innermeath.	
1543. Feb. 13.	Robert Reid, Preſident. [13.]	Biſhop of Orkney.	Cambuſkenneth *d.*
———	Mr Thomas Wemyſs.	———	———
1547. July 4.	Sir Robert Carnegie. [14.]	Kinnaird.	———
1547. March 19.	Mr George Hay.	Parſon of Renfrew.	———
1553. Jan. 20.	John Hamilton. [15.]	Archbp of St Andrew's.	———
———	Mr George Durie.	Commend. Dumfermline.	———
1554. Aug. 18.	Mr James Macgill.	Rankeillor Nether.	———
1554. Nov. 13.	Mr Abraham Creighton.	Provoſt of Dunglaſs.	———
———	Mr John Stevenſon.	Precentor of Glaſgow.	———
———	Mr William Baillie.	Provand.	———
———	Mr James Scot.	Provoſt of Corſtorphine.	———
———	Sir John Bellenden. [16.]	Auchinoul.	———
———	Mr Thomas Marjoribanks.	Ratho.	———

Date.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1554. Nov. 13.	Sir Richard Maitland. *Extr.* [17.]	Lethington.	———
———	William Chiſolme.	Biſhop of Dunblane.	———
———	Sir William Hamilton.	Sanquhar.	———
———	Mr Adam Livingſtone. *Extr.*	Dunnipace.	———
1558. ———	HENRY SINCLAIR, Preſ. [18.]	Biſhop of Roſs.	Biſhop Orkney *d.*
1560. Aug. 6.	Mr Archibald Dunbar. [19.]	Sub-Chant. Murray.	———
1561. Nov. 12.	Sir Richard Maitland.	Lethington.	Sanquhar *d.*
———	Mr John Spence.	Condie.	St Germains *d.*
———	William Keith. *Extr.*	Earl Mariſchal.	Lethington *pr.*
———	Mr William Maitland. *Extr.*	Lethington younger.	Dunnipace *d.*
———	Mr James Balfour. *Extr.*	Parſon of Fliſk.	Abbot of Dumfermline.
1562. Dec. 9.	Mr John Wood. *Extr.* [20.]	Tilliedavy.	———
1562. Feb. 11.	Mr Henry Balnavis.	Hallhill.	Lundie *d.*
1563. Nov. 15.	Mr James Balfour.	Parſon of Fliſk.	Corſtorphine *d.*
1563. Jan. 14.	Mr John Leſlie. [21.]	Parſon of Oyne.	Chantor of Glaſgow *d.*
1563. Jan. 14.	Adam Bothwell. *Extr.* [22.]	Biſhop of Orkney.	Fliſk *pr.*
1564. Dec. 14.	Mr Robert Maitland.	Dean of Aberdeen.	Biſhop Dunblane *d.*
1564. Jan. 26.	Mr David Chalmers. [23.]	Ormond.	Biſhop Roſs *d.*
1565. Nov. 13.	Adam Bothwell.	Biſhop of Orkney.	Provoſt of Dunglaſs *d.*
1565. Nov. 14.	JOHN SINCLAIR, Preſident.	Biſhop of Brechin.	Biſhop Roſs *d.*
1565. Nov. 26.	Alexander Gordon. *Extr.*	Biſhop of Galloway.	Biſhop Orkney *pr.*
1565. Jan. 12.	Sir William Maitland. [24.]	Lethington younger.	Kinnaird *d.*
1565. Jan. 12.	Dr Edward Henryſon. *Extr.*	———	Lethington younger *pr.*
1566. April 26.	Mr Archibald Crawfurd.	Parſon of Egliſhame.	Biſhop of Brechin *d.*
1566. May 29.	Mr William Baillie.	Provand.	Biſhop of Brechin *d.*
1566. June 12.	Mr John Wood. *Extr.* [25.]	Tilliedavy.	———
1566. Nov. 12.	Mr Gavin Hamilton. *Extr.*	Commendator Kilwinning.	———

Date.	*Name.*	*Title.*	*Predeceſſor.*
1567. Nov. 19.	Sir John Wiſheart. *Extr.*	Pittarrow.	Dr Henryſon *ſ.*
1567. Dec. 6.	Sir JAMES BALFOUR, Pref. [26.]	Pittendrich.	Provan *ſ.*
1568. June 2.	Mr Robert Pitcairne.	Commend. Dunfermline.	Ormond *ſ.*
1568. June 2.	John ——— [27.]	Commend. Coldinghame.	Egliſhame *ſ.*
1568. June 2.	Mr Archibald Douglas.	Parſon of Douglas.	Biſhop of Roſs *ſ.*
1569. April 20.	Mark Ker. *Extr.* [28.]	Commend. Newbottle.	Biſhop of Galloway *ſ.*
1570. Sept. 30.	John Lion. *Extr.*	Lord Glamis.	———
1570. Oct. 20.	Mr Thomas Macallyean.	Cliftonhall.	Hallhill *d.*
1573. Oct. 20.	Mr David Borthwick.	Lochill.	Condie *d.*
1573. Oct. 24.	Robert Boyd. *Extr.*	Lord Boyd.	Glamis *pr.*
1573. Jan 18.	Sir John Wiſheart. *Extr.*	Pittarrow.	E. Mariſchal.
1575. July 9.	Mr James Meldrum.	Segie.	Lauder *r.*
1575. Oct. 20.	Mr Robert Pont. [29.]	Pr. of Trinity College.	———
1575. Oct. 21.	Mr William Douglas.	Whittinghame.	———
1575. Oct. 26.	Mr Alexander Colvil.	Abbot of Culroſs.	———
1575. Nov. 21.	Mr Henry ——— *Extr.*	Commend. Balmerino.	———
1575. Jan. 11.	Mr Patrick Vanſe. [30.]	Barnbarrrow.	Dean of Aberdeen *ſ.*
1577. April 20.	Mr Thomas Bellenden.	Newtyle.	Auchinoul *d.*
1578. May 8.	Patrick Gray. *Extr.*	Maſter of Gray.	Boyd *ſ.*
1578. Oct. 25.	Robert Boyd. *Extr.* [31.]	Lord Boyd.	Maſter of Gray *ſ.*
1578. Nov. 11.	Mr Archibald Douglas.	Parſon of Glaſgow.	———
1578. Nov. 25.	William Ruthven. *Extr.*	Lord Ruthven.	Pittarrow.
1579. Aug. 15.	Mr Alexander Hay.	Eaſter Kennet.	Rankeillor *d.*
1580. Feb. 1.	Mr Robert Creighton.	Elliock.	Lochill *d.*
1581. April 26.	Mr John Maitland. [32.]	Thirleſtane.	Parſ. of Glaſgow *ſ.*
1581. July 5.	Mr John Lindſay.	Parſon of Menmure.	Cliftonhall *d.*
1582. June 27.	Mr David Macgill. [33.]	Niſbet.	Elliock *d.*

Date.	*Name.*	*Title,*	*Predeceſſor.*
1583. Dec. 10.	James Stewart. *Extr.*	Earl of Arran.	Boyd *r.*
1583. Jan. 23.	James Stewart. *Extr.*	Lord Down.	Commend. Balmerino *r.*
1584. May 12.	John Graham. *Extr.*	Earl of Montroſe.	Gowrie *d.*
1584. May 23.	Mr John Graham. [34.]	Hallyards.	Robert Pont *r.*
1584. July 17.	Sir Lewis Bellenden.	Auchinoul. [35.]	Lethington ſenior *r.*
1584. Nov. 12.	Patrick Gray. *Extr.*	Lord Gray.	Arran *pr.*
1584. Nov. 12.	Mr Mark Ker. *Extr.*	Com. Newbottle. [36.]	Newbottle *d.*
1584. Nov. 24.	Mr John Bartane.	Dean of Dunkeld.	Com. Dunfermline.
1585. Jan. 27.	Mr Alexander Seton. *Extr.*	Prior of Pluſcarden.	Down.
1585. Feb. 9.	Mr Thomas Lyon. *Extr.*	Balduckie.	Montroſe *r.*
1586. June 21.	Robert Boyd. *Extr.*	Lord Boyd.	Gray *ſ.*
1586. July 21.	Mr David Chalmers.	Ormond.	D. Dunkeld *ſ.*
1586. March 4.	Mr James Elphinſtone.	Innernochtie.	Thirleſtane *r.*
1587. June 2.	Mr John Colvil.	Chantor of Glaſgow.	Commend. Culroſs *r.*
1587. June 21.	Mr Alexander Colvil.	Commend. of Culroſs.	Chant. of Glaſgow *r.*
1587. Aug. 14.	Mr William Melvill.	Commend. of Tongland.	Dean of Moray *r.*
1587. Feb. 16.	Alexander Seton.	Lord Urquhart.	Segie *d.*
1587. Feb. 17.	Sir John Seton. *Extr.*	Barnes.	Urquhart *pr.*
1588. July 4.	Mr John Cockburne. *Extr.*	Ormiſtoune.	Boyd *r.*
1590. Aug. 8.	Mr Archibald Douglas.	Whittinghame younger.	Whittinghame *r.*
1591. Aug. 14.	Mr Thomas Bellenden.	Newtyle.	Newtyle *d.*
1591. Nov. 6.	John Graham. *Extr.*	Earl of Montroſe.	Balduckie *ſ.*
1591. Nov. 11.	Mr Richard Cockburne.	Clerkintoun.	Auchinoul *d.*
1591. Nov. 26.	Mr Andrew Wemyſs. [37.]	Myrecairnie.	Newtyle *d.*
1592. Nov. 9.	Mr Thomas Hamilton.	Drumcairne.	Ormond *d.*
1592. Feb. 15.	Sir John Cockburn. [38.]	Ormiſtoune.	Hallyards *d.*
1592. March 8.	Sir Thomas Lyon. *Extr.*	Auldbar.	Ormiſtoun *pr.*

Date.	*Name.*	*Title.*	*Predeceſſor.*
1593. March 28.	Sir Thomas Lyon.	Auldbar.	Provand *d.*
1593. May 28.	Mr Walter Stewart. *Extr.*	Commendator Blantyre.	Auldbar *pr.*
1593. May 28.	ALEXANDER SETON, Preſident.	Lord Urquhart.	Provand *d.*
1593. July 2.	Mr John Bothwell.	Com. Holyroodhouſe.	Biſhop Orkney *r.*
1594. June 11.	Sir Robert Melvill. *Extr.*	Mordocairnie.	Barnes *d.*
1594. Nov. 30.	Mr John Skene. [39.]	Curriehill.	Eaſter Kennet *d.*
1594. March 12.	Mr John Preſton. [40.]	Fenton-barns.	Cranſton-Riddel *d.*
1596. May 19.	Peter Rollock. *Extr.*	Biſhop of Dunkeld.	E. Montroſe *r.*
1597. May 28.	Mr David Macgill. [41.]	Cranſton-Riddel.	Commend. Culroſs *d.*
1597. Dec. 2.	Mr Edward Bruce.	Kinloſs.	Barnbarrow *d.*
1597. Feb. 23.	Sir David Lindſay.	Edzell.	Menmure *r.*
1599. May 17.	Alexander Elphinſtone. *Extr.*	Maſter of Elphinſtone.	Commend. Blantyre *ſ.*
1601. Feb. 26.	Sir Robert Melvill. *Extr.*	Bruntiſland.	Mordocairnie *r.*
1604. Feb. 25.	Mr Alexander Hay.	Foſterſeat.	Kinloſs *r.*
———	Sir James Wemyſs.	Bogie. [42.]	———
———	Sir Lewis Craig.	Wrights-lands.	———
———	Sir John Wemyſs.	Craigtoun.	———
1605. March 1.	JAMES ELPHINSTONE, Preſident.	Lord Balmerino.	E. Dunfermline *pr.*
1607. May 29.	Mr Thomas Hamilton. [43.]	Preſtonfield.	Cranſton-Riddel *d.*
1608. May 17.	Sir Alex. Drummond. *Extr.* [44.]	Medhope.	Bruntiſland *ſ.*
1608. June 30.	Sir Andrew Hamilton.	Redhouſe.	Preſtonfield *r.*
1609. June 6.	Mr JOHN PRESTON, Preſident.	Fenton-barns.	Balmerino *pr.*
1609. June 6.	Sir William Livingſton.	Kilſyth.	Fenton-barns *pr.*
1610. Jan. 13.	Walter Stewart. *Extr.*	Lord Blantyre.	Lord Elphinſtone *ſ.*
1610. Jan. 13.	Alexander Livingſton. *Extr.*	Maſter of Livingſton.	———
1610. Jan. 13.	Sir Robert Melvill. *Extr.*	Bruntiſland.	Medhope *ſ.*
1610. Jan. 30.	John Spottiſwoode. *Extr.*	Archbiſhop of Glaſgow.	E. Lowthian *d.*

Date.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1610. Feb. 3.	Sir Alexander Hay.	Newton.	Holyroodhouſe *d.*
1610. May 16.	Mr Peter Rollock. *Extr.*	Piltoun. [45.]	———
1611. Jan. 16.	Mr William Oliphant.	Newton.	Edzell *d.*
1612. June 12.	Sir James Skene.	Curriehill.	Curriehill *r.*
1613. Nov. 2.	Sir Gideon Murray. [46.]	Elibank.	Tongland.
1616. June 15.	THOMAS HAMILTON, Pr. [47.]	Lord Binning.	Fenton-barns *d.*
1616. July 5.	David Carnegie	Lord Carnegie.	Fenton-barns *d.*
1617. March 15.	Sir George Ereſkine. [48.]	Innerteil.	Bogie *d.*
1618. June 5.	John Maitland.	Viſcount of Lauderdale.	Whittinghame *r.*
1620. Feb. 1.	John Ereſkine. *Extr.*	Lord Ereſkine.	Piltoun *r.*
1621. July 10.	Sir Alexander Gibſon.	Durie.	Elibank *d.*
1622. June 6.	Mr Thomas Henderſon.	Cheſters.	Wrights-lands *d.*
1622. July 12.	Sir Ro. Spottiſwoode. *Extr.* [49.]	New-Abbay.	Archbp St Andrew's *r.*
1622. July 27.	Sir John Hamilton. [50.]	Magdalens.	——— ———
1623. Nov. 25.	Sir Archibald Napier. [51.]	Merchiſtoun.	Ormiſtoun *d.*
1623. Dec. 18.	Sir Andrew Fletcher.	Innerpeffer.	Craigtoun *d.*
1626. Feb. 14.	Sir ROBERT SPOTTISWOODE, P.	New-Abbay.	Melros *pr.*
1626. Feb. 14.	Mr Alexander Seton.	Kilcreuch.	Merchiſtoun *ſ.*
1626. Feb. 14.	Sir George Auchinleck. [52.]	Balmanno.	Lauderdale *ſ.*
1626. Feb. 14.	Sir Alexander Napier.	Laurieſton.	Lord Carnegie *ſ.*
1626. Feb. 14.	Sir Archibald Acheſon. [53.]	Glencairnie.	Clerkington *ſ.*
1626. Feb. 14.	Mr James Bannatyne.	Newhall.	Magdalens *ſ.*
1626. Feb. 14.	Mr Alexander Moriſon.	Preſtongrange.	Newton *ſ.*
1626. Feb. 15.	Sir Archibald Napier. *Extr.*	Merchiſtoun.	———
1626. Feb 15.	David Carnegie. *Extr.*	Lord Carnegie.	———
1626. June 1.	John Maitland. *Extr.*	E. Lauderdale.	———
1626. July 2.	Patrick Maxwell. *Extr.*	Biſhop of Roſs.	———

Date.	*Name.*	*Title.*	*Predeceſſor.*
1627. Nov. 8.	Sir James Learmonth.	Balcomie.	Glencairnie *r.*
1627. Nov. 8.	Mr George Haliburton.	Fodderance.	Kilſyth *d.*
1628. June 18.	John Ereſkine. *Extr.* [54.]	Lord Ereſkine.	Biſhop of Roſs *ſ.*
1628. Nov. 4.	Sir Archibald Acheſon. *Extr.*	Glencairnie.	Lord Napier *ſ.*
1628. Nov. 8.	William Graham. *Extr.*	E. of Monteith.	E. Lauderdale *ſ.*
1628. Nov. 8.	Sir Andrew Ker. *Extr.*	Maſter of Jedburgh.	Lord Carnegie *ſ.*
1629. Jan. 14.	Sir John Scot. *Extr.* [55.]	Scotſtarvet.	Maſter of Jedburgh *d.*
1629. Nov. 3.	Sir James Oliphant.	Newton.	Forreſter-ſeat *r.*
1629. Nov. 3.	Sir James Macgill.	Cranſton-Riddel.	Laurieſton *d.*
1630. Nov. 2.	Sir John Hamilton. *Extr.*	Magdalens.	Scotſtarvet *ſ.*
1630. Nov. 10.	John Stewart. *Extr.*	Earl of Traquair.	Lord Ereſkine *ſ.*
1631. July 28.	William Alexander. *Extr.*	Viſcount of Stirling.	Glencairnie *ſ.*
1632. July 27.	Sir John Hope.	Craighall.	Newton *r.*
1632. July 28.	Sir John Scot.	Scotſtarvet.	Preſtongrange *d.*
1633. Jan. 8.	Sir John Hay. *Extr.*	Barro.	Magdalens *d.*
1633. Nov. 1.	Sir ROBERT SPOTTISWOODE, P.	New-Abbay.	Curriehill *d.*
1633. Dec. 4.	John Maxwell. *Extr.*	Biſhop of Roſs.	E. of Monteith *ſ.*
1634. Jan. 7.	Sir John Hay.	Barro.	Curriehill *d.*
1634. Jan. 14.	Archibald Campbell. *Extr.*	Lord Lorne.	Barro *pr.*
1635. Jan. 27.	William Alexander. *Extr.*	Lord Alexander.	E. Stirling *pr.*
1636. Nov. 1.	Mr Patrick Niſbet.	Eaſtbank.	Newhall *d.*
1637. Jan. 10.	Sir John Hamilton.	Orbieſton.	Cheſters *r.*
1637. March 1.	Sir William Elphinſton.	———	Redhouſe *d.*
1637. June 6.	Mr Adam Cuninghame.	Woodhall.	Kilcreuch *r.*
1639. Feb. 9.	Archibald Douglas. *Extr.*	Lord Angus.	Lord Alexander *d.*
1639. March 6.	Sir James Carmichael.	Carmichael.	Balmanno *d.*
1639. July 9.	Sir Alexander Falconer.	Halkertoun.	Woodhall *d.*

New Commiſſion by Act of Parliament, 13th November 1641.

N. B. Thoſe marked *N* had not formerly ſerved.

Date.	*Name.*	*Title.*	*Predeceſſor.*
	Sir George Ereſkine.	Innerteil.	
	Sir Alexander Gibſon.	Durie.	
	Sir Andrew Fletcher.	Innerpeffer.	
	Sir John Hamilton.	Orbieſtoun.	
	Sir James Carmichael.	Carmichael.	
	Sir James Learmonth.	Balcomie.	
	Sir James Macgill.	Cranſton-Riddel.	
	Sir George Haliburton.	Fodderance.	
	Sir John Hope.	Craighall.	
	Sir John Scot.	Scotſtarvet.	
	Sir Alexander Falconer.	Halkertoun.	
N.	Sir John Leſlie.	Newton.	
N.	Sir Thomas Hope.	Kerſe.	
N.	Sir Archibald Johnſton.	Warriſton.	
N.	Sir Adam Hepburn.	Humbie.	
	Archibald Campbell. *Extr.*	Earl of Argyle.	
	Archibald Douglas. *Extr.*	Lord Angus.	
N.	John Lindſay. *Extr.* [56.]	Lord Lindſay.	
N.	John Elphinſtone. *Extr.*	Lord Balmerino.	
1646. July 2.	Sir Alexander Gibſon.	Durie.	Innerteil *d.*
1646. July 2.	Sir James Lockhart.	Lee.	Durie elder *d.*
1646. July 2.	Sir Alexander Belſches.	Toſts.	Kerſe *d.*
1649. June 1.	Sir James Hope. [57.]	Hopetoun.	———

Date.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1649. June 1.	Mr Robert Bruce.	Broomhall.	———
1649. June 1.	Mr Alexander Pearſon.	South-hall.	———
1649. June 1.	Mr Robert Macgill.	Ford.	———
1649. June 7.	John Elphinſtone. *Extr.*	Lord Coupar.	Balmerino *d.*
1649. June 8.	Sir William Scot.	Clerkingtoun.	———
1649 June 22.	Mr George Winram.	Libbertoun.	———
1649. July 3.	John Kennedy. *Extr.*	Earl of Caſſilis.	Crawfurd *ſ.*
1649. Nov. 1.	Mr Alexander Brodie.	Brodie.	———
1649. Nov. 1.	Mr John Dickſon.	Hartree.	Fodderance *d.*
———	Sir Hew Campbell.	Ceſnock.	———

Commiſſioners for Adminiſtration of Juſtice to the People of Scotland. Appointed by Oliver Cromwell.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1654. Nov. 1.	George Smyth, Eſq; [58.]	———	———
———	William Laurence, Eſq;	———	———
———	Edward Moſely, Eſq;	———	———
1655. Jan. 1.	Mr John Swinton. [59.]	Swinton.	———
———	Mr Alexander Pearſon.	South-hall.	———
1655. Nov. 7.	Sir James Lermonth.	Balcomie.	———
1655. Nov. 7.	Mr Andrew Ker. [60.]	———	———
1656. Jan. 4.	Sir William Lockhart.	———	———
1657. July 1.	Mr James Dalrymple. [61.]	Stair.	Balcomie *d.*
1657. Nov. 3.	Sir Archibald Johnſtone. [62.]	Warriſton.	———
1657. Dec. 3.	Alexander Brodie.	Brodie.	———

RESTORATION.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1661. June 1.	Sir JOHN GILMOUR, Pr. [63.]	Craigmillar.	
———	Alexander Falconer.	Lord Halkertoun.	
———	Sir Archibald Primroſe.	Carrington.	
———	Sir Robert Murray. [64.]	Lord Juſtice-Clerk.	
———	Sir James Macgill.	Cranſton.	
———	Sir James Lockhart.	Lee.	
———	Sir George Mackenzie. [65.]	Tarbet.	
———	Sir Archibald Stirling.	Carden.	
———	Sir James Foulis.	Collington.	
———	Sir James Dalrymple.	Stair.	
———	Sir Robert Nairne. [66.]	Strathurd.	
———	Mr Robert Burnet. [67.]	Crimond.	
———	Mr James Roberton. [68.]	Bedlay.	
———	Mr John ſcougal. [69.]	Whytekirk.	
———	Mr Andrew Ayton.	Kinglaſſie.	
———	John Lindeſay. *Extr.*	Earl of Crawfurd.	
———	John Leſley. *Extr.*	Earl of Rothes.	
———	John Maitland. *Extr.*	Earl of Lauderdale.	
———	John Kennedy. *Extr.*	Earl of Caſſilis.	
1661. June 25.	Sir David Nevoy. [70.]	Nevoy.	Cranſton *r.*
1662. June 4.	Sir James Dundas. [71.]	Arniſton.	Crimond *d.*
1662. July 15.	John Middleton. *Extr.*	Earl of Middleton.	Caſſilis *f.*
1663. June 18.	Mr John Home.	Renton.	Sir R. Murray *r.*
1664. June 2.	John Hay. *Extr.*	Earl of Tweeddale.	Crawfurd *r.*

Date.	*Name.*	*Title.*	*Predeceſſor.*
1664. Nov. 4.	Alexander Burnet. *Extr.*	Archbiſhop of Glaſgow.	Middleton *r.*
1664. Nov. 4.	Sir John Niſbet. [72.]	Dirleton.	Bedlay *d.*
1664. Nov. 4.	Sir John Baird.	Newbyth.	Tarbet *ſ.*
1665. Nov. 22.	Sir John Lockhart.	Caſtlehill.	Arniſton *r.*
1667. July 10.	Alexander Bruce. *Extr.*	Earl of Kincardine.	Rothes *pr.*
1668. June 25.	James Graham. *Extr.* [73.]	Marquis of Montroſe.	Archbp of Glaſgow *ſ.*
1668. July 17.	Sir Peter Wedderburn. [74.]	Gosfoord.	Carden *d.*
1669. Nov. 2.	John Seton. *Extr.*	Earl of Dumfermline.	Montroſe *d.*
1669. Nov. 2.	Mr Charles Maitland. [75.]	Halton.	Kinglaſſie *d.*
1671. Jan. 17.	Sir JAMES DALRYMPLE, Preſ.	Stair.	Craigmillar *r.*
1671. Jan. 21.	Sir Thomas Wallace.	Craigie.	Stair *pr.*
1671. Nov. 23.	Sir Andrew Ramſay.	Abbotſhall.	Halkertoun *d.*
1671. Nov. 23.	Sir Richard Maitland.	Pittrichie.	Renton *d.*
1672. March 4.	Sir Robert Preſton.	Preſton.	Whytekirk *d.*
1673. Jan. 14.	John Murray. *Extr.*	Earl of Athol.	Dumfermline *d.*
1674. June 14.	Sir David Balfour.	Forret.	Abbotſhall *ſ.*
1674. June 14.	Sir Thomas Murray. [76.]	Glendoick.	Lee *d.*
1674. July 11.	Archibald Campbell. *Extr.* [77.]	Earl of Argyle.	Tweeddale *ſ.*
1674. Nov. 27.	Sir James Foulis.	Reidfurd.	Preſton *d.*
1676. June 11.	Sir David Falconer.	Newton.	Carrington *pr.*
1677. Nov. 13.	Sir Alexander Seton. [78.]	Pitmedden.	Pittrichie *d.*
1677. Nov. 13.	Sir Roger Hogg.	Harcarſe.	Dirleton *r.*
1679. Nov. 28.	Sir Andrew Birnie.	Saline.	Gosfoord *d.*
1680. June 1.	Sir George Gordon.	Haddo.	Craigie *d.*
1680. Nov. 19.	Alexander Stewart. *Extr.*	Earl of Moray.	Kincardine *d.*
1681. Nov. 1.	Sir GEORGE GORDON, Pr. [79.]	Haddo.	Stair *ſ.*
1681. Nov. 1.	Sir George Mackenzie.	Tarbet.	Glendoick *ſ.*

Date.	*Name.*	*Title.*	*Predeceſſor.*
1681. Nov. 1.	Sir Patrick Ogilvie.	Boyne.	Newbyth *ſ.*
1681. Nov. 1.	Mr John Murray.	Drumcairne.	Haddo *pr.*
1681. Nov. 1.	William Douglas. *Extr.*	Earl of Queenſberry.	Argyle *ſ.*
1682. July 5.	Sir DAVID FALCONER, Pr. [80.]	Newton.	Haddo *pr.*
1682. July 5.	Sir George Nicolſon. [81.]	Kemnay.	Newton *pr.*
1682. Nov. 14.	Mr John Wauchope.	Edmonſtone.	Halton *ſ.*
1682. Nov. 16.	James Drummond. *Extr.*	Earl of Perth.	Lauderdale *d.*
1683. Nov. 1.	Sir Thomas Stewart.	Blair.	Nevoy *d.*
1683. Nov. 2.	Sir Patrick Lyon. [82.]	Carſe.	Strathurd *d.*
1684. July 15.	Charles Middleton. *Extr.*	Earl of Middleton.	Perth *pr.*
1685. Dec. 28.	Sir GEO. LOCKHART, Pr. [83.]	Carnwath.	Newton *d.*
1686. March 26.	Patrick Lyon. *Extr.*	Earl of Strathmore.	Middleton *pr.*
1686. ———	William Hamilton. *Extr.* [84.]	Duke of Hamilton.	Queenſberry *ſ.*
1687. Feb. 11.	Mr Alexander Malcolme.	Lochore.	Pitmedden *ſ.*
1688. Feb. 23.	Sir John Dalrymple.	Stair.	Collington *d.*
1688. June 19.	Mr Alexander Swinton. [85.]	Merſington.	Harcarſe *ſ.*
1688. June 23.	Mr Lewis Gordon.	Auchintoul.	Edmonſtone *ſ.*

REVOLUTION.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1689. Nov. 1.	Sir JAMES DALRYMPLE, Preſ.	Stair.	
———	Sir John Baird.	Newbyth.	
———	Mr Alexander Swinton.	Merſington.	
———	Sir Colin Campbell.	Aberuchill.	
———	James Murray.	Philiphaugh.	
———	James Dundas.	Arniſton.	

Date.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1689. Nov. 1.	Mr John Hamilton.	Halcraig.	
———	Mr David Home.	Crocerig.	
———	Sir John Maitland [86.]	Ravelrig.	
———	Sir Robert Sinclair.	Stevenſon.	
———	Sir John Lauder.	Fountainhall.	
———	William Anſtruther.	Anſtruther.	
———	Mr Archibald Hope.	Rankeillor.	
———	Mr James Falconer.	Pheſdo.	
———	Robert Hamilton.	Preſmennan.	
1693. Nov. 23.	William Douglas. *Extr.*	Duke of Queenſberry.	
———	William Johnſtone. *Extr.*	Earl of Annandale.	
1693. Nov. 28.	Patrick Hume. *Extr.* [87.]	Lord Polwarth.	
1693. Dec. 19.	William Hamilton. *Extr.*	Duke of Hamilton.	
1693. Dec. 29.	Sir William Hamilton.	Whitelaw.	Stevenſon *r.*
1694. Dec. 14.	Archibald Campbell. *Extr.*	Earl of Argyle.	D. Hamilton *d.*
1696. June 9.	Mr James Scougal.	Whitehill.	Preſmennan *d.*
1696. June 26.	James Douglas. *Extr.*	Duke of Queenſberry.	D. Queenſberry *d.*
1698. June 7.	Mr HEW DALRYMPLE, Pref.	Northberwick.	Stair *d.*
1699. Feb. 7.	Hugh Campbell. *Extr.*	Earl of Loudoun.	Marchmont *pr.*
1699. Feb. 17.	Sir John Maxwell.	Pollock.	Newbyth *d.*
1701. July 25.	Mr Robert Stewart.	Tillicutrie.	Merſington *d.*
1703. Jan. 12.	Mr Roderick Mackenzie.	Preſtonhall.	Whitehill *d.*
1704. June 20.	John Campbell. *Extr.*	Duke of Argyle.	D. Argyle *d.*
1704. Nov. 7.	Sir Alexander Campbell. [88.]	Ceſnock.	Aberuchill *d.*
1705. Jan. 31.	Adam Cockburn.	Ormiſtoun.	Whitelaw *d.*
1705. June 28.	Sir Gilbert Elliot.	Minto.	Pheſdo *d.*
1705. July 23.	Sir Alexander Ogilvy.	Forglen.	Halcraig *d.*

Date.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1707. March 18.	Mr James Ereſkine.	Grange.	Rankeillor *d.*
1707. June 7.	Mr John Murray.	Bowhill.	Crocerig *d.*
1708. June 1.	Archibald Campbell. *Extr.*	Earl of Ilay.	D. Argyle *r.*
1709. June 7.	Mr Dougal Stewart.	Blairhall.	Tillicutrie *r.*
1709. June 10.	Sir Francis Grant.	Cullen.	Philiphaugh *d.*
1710. June 7.	Sir James Mackenzie.	Royſton.	Preſtonhall *r.*
1710. Nov. 8.	Mr David Ereſkine.	Dun.	Lauderdale *d.*
1711. Nov. 6.	Sir William Calderwood.	Polton.	Anſtruther *d.*
1712. Nov. 7.	John Murray. *Extr.*	Duke of Athole.	Queenſberry *d.*
1712. Nov. 8.	Mr James Hamilton.	Pencaitland.	Blairhall *d.*
1714. June 5.	Mr James Elphingſton. [89.]	Coupar.	Bowhill *d.*
1714. Nov. 23.	Sir Andrew Hume.	Kimmerghame.	Ceſnock *r.*
1718. June 6.	Sir Walter Pringle.	Newhall.	Minto *d.*
1721. March 7.	John Hay. *Extr.*	Marquis of Tweeddale.	Annandale *d.*
1724. June 4.	Mr Andrew Fletcher.	Milton.	Fountainhall *d.*
1724. June 4.	Sir Gilbert Elliot.	Minto.	Cullen *d.*
1726. Dec. 29.	Mr Hew Dalrymple.	Drummore.	Arniſton *d.*
1727. June 10.	Mr Patrick Campbell.	Monzie.	Forglen *d.*
1729. July 1.	Mr John Pringle.	Haining.	Pencaitland *d.*
1730. June 5.	Mr Alexander Fraſer.	Strichen.	Kimmerghame *d.*
1732. Nov. 3.	Mr Patrick Grant.	Elchies.	Pollock *d.*
1733. Nov. 3.	Mr John Sinclair.	Murkle.	Polton *d.*
1734. July 11.	Alexander Leſley.	Earl of Leven.	Grange *r.*
1735. Nov. 7.	Sir James Ferguſſon.	Kilkerran.	Ormiſtoun *d.*
1737. June 10.	Mr Robert Dundas.	Arniſton.	Newhall *d.*
1737. June 21.	Mr DUNCAN FORBES, Preſident.	Culloden.	Northberwick *d.*
1744. Nov. 23.	Mr Charles Areſkine.	Tinwald.	[illegible]ſton *d*

Date.

Date.	*Name.*	*Title.*	*Predeceſſor.*
1746. Dec. 19.	Mr Patrick Boyle.	Shewalton.	Balmerino *d.*
1748. Sept. 10.	Mr ROBERT DUNDAS, Preſident.	Arniſton.	Culloden *d.*
1749. June 3.	Mr James Grahame.	Eaſdale.	Arniſton *pr.*
1751. Feb. 26.	Mr George Sinclair.	Woodhall.	Eaſdale *d.*
1752. Feb. 6.	Mr Henry Home.	Kaims.	Monzie *d.*
1754. Feb. 2.	Mr ROBERT CRAIGIE, Preſ.	Glendoick.	Arniſton *d.*
1754. Feb. 15.	Mr Alexander Boſwel.	Auchinleck.	Dun *r.*
1754. Nov. 14.	Mr William Grant.	Preſtongrange.	Elchies *d.*
1754. Nov. 20.	Mr Robert Pringle.	Edgefield.	Leven *d.*
1754. Nov. 28.	Mr Thomas Hay.	Huntington.	Haining *d.*
1755. July 5.	Mr Andrew Macdowal.	Bankton.	Murkle *d.*
1755. July 24.	Mr Peter Wedderburn.	Cheſterhall.	Huntington *d.*
1755. July 31.	Mr George Carre.	Niſbet.	Drummore *d.*
1756. Dec. 18.	Mr George Brown.	Coalſtoun.	Cheſterhall *d.*
1759. June 14.	Mr Andrew Pringle.	Alemore.	Kilkerran *d.*
1760. June 14.	Mr ROBERT DUNDAS, Preſident.	Arniſton.	Glendoick *d.*
1761. March 6.	Mr James Veitch.	Elliock.	Bankton *d.*
1761. June 18.	Mr James Ereſkine.	Barjarg.	Shewalton *d.*
1762. June 16.	Mr John Campbell.	Stonefield.	Tinwald *d.*
1764. June 14.	Mr James Ferguſon.	Pitfour.	Edgefield *d.*
1764. July 3.	Mr Francis Garden.	Gardenſtoun.	Woodhall *d.*
1764. July 4.	Mr Robert Bruce.	Kennet.	Preſtongrange *d.*
1766. March 6.	Sir David Dalrymple.	Hailes.	Niſbet *d.*
1766. June 14.	Mr Thomas Miller.	Barſkimming.	Minto *d.*
1767. Feb. 12.	Mr James Burnett.	Monboddo.	Milton *d.*

Date.	Name.	Title.	Predecessor.
1748. Dec. 19.	Mr Patrick Boyle.	Shewalton.	Plainsteins d.
1748. Sept. 10.	Mr Robert Dundas, President.	Arniston.	Castlehill d.
1749. June 3.	Mr James Graham.	Easdale.	Stenton pr.
1751. Feb. 16.	Mr George Sinclair.	Woodhall.	Stonkle d.
1752. Feb. 6.	Mr Henry Home.	Kames.	Milnrie d.
1752. Feb. 8.	Mr Robert Craigie, Pres.	Glenbuck.	Arniston d.
1754. Feb. 19.	Mr Alexander Bolwel.	Auchinleck.	Drury.
1754. Nov. 19.	Mr William Grant.	Prestongrange.	Elchies d.
1754. Nov. 20.	Mr Robert Craigie.	Edgefield.	Lewen d.
1754. Nov. 20.	Mr Thomas Hay.	Huntington.	Haining d.
1755. July 5.	Mr Andrew Mcdowal.	Braidstone.	Blairdrie d.
1755. July 24.	Mr Peter Wedderburn.	Chesterhall.	Gardenstun d.
1755. July 24.	Mr George Cleiro.	Nibet.	Drumsmelie d.
1756. Dec. 18.	Mr George Brown.	Coalston.	Coalstoun d.
1760. June 14.	Mr Andrew Pringle.	Alemore.	Clifton d.
1760. June 14.	Mr Robert Dundas, President.	Arniston.	Westhall d.
1760. March 6.	Mr James Veitch.	Elliock.	Dunsten d.
1760. June 26.	Mr James Ogilvie.	Barry.	Blewston d.
1760. June 26.	Mr James Campbell.	Stonefield.	Thrieve d.
1760. June 14.	Mr James Fergusson.	Pitfour.	Edgefield d.
1760. July 1.	Mr Thomas Coutts.	Coutterton.	Woodhall d.
1760. July 4.	Mr Robert Boyle.	Kelburn.	Dunsyre d.
17[illegible]. March 6.	Mr Daniel Dalrymple.	Hailes.	Killoch d.
1760. June 14.	Mr Thomas Miller.	Barskimming.	Ormiston d.
1760. Feb. 13.	Mr James Burnet.	[illegible]	[illegible] d.

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NOTES

ON

The Catalogue of the LORDS of SESSION.

Note 1. *Mr Richard Bothwell, Rector of Eſkirk.*

March 7. 1539. The King diſpenſes with his attendance, he being aged; but reſerves to him his ſalary and privileges.

Note 2. *Mr Henry Whyte, Rector of Finevin.*

February 16. 1539: The King diſpenſes with his attendance, by reaſon of his age. The diſpenſation makes mention of his good ſervice performed to the King, and his deceaſed father.

Note 3. *Sir John Campbell of Lundie.*

There is a judgement concerning him, which ſhews the impartiality and firmneſs of the court: "*March* 21. 1537. This day Sir John Campbell of Lundie produced an warrand, ſubſcribed by the King, excuſing his abſence, in reſpect of the King's affairs, and deſiring him to be reponed in all matters concerning himſelf, and them he does for; and therefore he propones an alledgeance, deſiring to be reponed againſt an interlocutor given in the cauſe of declarator of non-entry of the lands of Dunmuire in Forfar, purſued by Mr James Foulis, donatar, againſt Katharine Barclay and her ſon, for whom he compeared. The Lords, by interlocutor, *find, they cannot repone any perſon, but ſpecially a procurator, in the place that they have negligently tint* [loſt], *without conſent of party; and therefore ordains the proceſs to be adviſed.*"

He ſurvived all his brethren of the firſt inſtitution.

There is a remarkable letter from Queen Mary to him, inſerted in the books of ſederunt, 25th February 1560:

"TRUSTY FRIEND, After hearty commendations, having underſtood, how you in all things continuing the good affection and faithful duty ye have, by the ſpace of theſe ſixty years and more, ſhown at all times to the advancement of our predeceſſors ſervice, and has now lately ſo condignly employed yourſelf in theſe matters that concern the weal of our affairs, that we are remained ſo contented and ſatisfied, that the occaſion ſhall not offer, but we ſhall be willing to let you know our good will and mind towards you, and would that you believe ye have as mickle force as good will to continue.

" We have ſeen a pretendit teſtament of the Queen-Regent our mother, whom God aſſol-
" zie, wherein ye are executor, the nullity whereof is evidently known, as we made evi-
" dently appear by the letters we diſpatch inſtantly away to our realm for that effect; al-
" ways we will not let to pay her lawful debts, and recompence her good and faithful
" ſervants. Not the leſs our intention is, the ſame be led and conduced under authority,
" as it ought, praying to write how all things hereto belonging ſhall be handled. So fare
" you heartily well. At St Germains, the 8th of October.

" Your good friend, MARIE."

Note 4. *Sir James Colvill of Eaſter Wemyſs.*

March 14. 1540. He was forfeited, *after his death*, for having refuſed to enter himſelf in ward within the caſtle of Blackneſs, and for having conſorted with the Earl of Angus, and his brother George Douglas, traitors. His eſtate was annexed to the crown. Parl. 7. c. 115. James V.

Note 5. *Mr James Foulis of Collington.*

He was clerk-regiſter. In an abridgement of the acts of ſederunt, it is noted, " His fa-
" ther is ſaid to have been a ſkinner in Edinburgh." To which Lord Pitmedden ſubjoins,
" This is no reflection; for Secretary Cecil's father was the ſame at Stamford in England."

Note 6. *Mr Robert Galbraith.*

March 12. 1538. He appears as an advocate for Lord Methven, and the Queen's Grace, his ſpouſe, (the Queen-dowager, widow of James IV.). He was murdered in 1543 by John Carkeitill and his accomplices. Books of ſederunt, Feb. 13. 1543.

Note 7. *Mr Henry Sinclair, Dean of Glaſgow.*

Afterwards Biſhop of Roſs, and Preſident of the court of Seſſion. He and Mr John Sinclair (ſee 19th November 1540) were the younger brothers of Oliver Sinclair of Roſslin, the favourite of James V. It is uncertain whether Henry or John was the author of the MSS. deciſions from June 1540, to 15th February 1548, commonly called *Sinclair's Practics.*

Note 8. *Mr Henry Balnavis of Hallhill.*

He is highly extolled by Knox; but as Knox is as apt to exaggerate the virtues of his friends, as the vices of his enemies, it may be proper to mention a leſs ſuſpicious teſtimony: " He was a godly, learned, wiſe, and long experimented counſellor." *Melvil's Memoirs*, p. 27. edit. 1.

Note

Note 9. *Mr John Letham, Rector of Killcryſt.*

His name appears among thoſe of the eight advocates appointed at the inſtitution of the court. The others were, Mr Robert Galbraith, Mr Robert Leſlie, Mr Henry Spittel, Mr Henry Lauder, Mr Thomas Kincraigie, Mr Thomas Marjoriebanks, Mr William Johnſtone.

About this time, 13th March 1538, I obſerve, that parties are ordained to give in "their *juris* informations."

Note 10. *Mr Henry Lauder of St Germains.*

He had been King's Advocate. On the 13th January 1538, the King wrote the following letter to the court. "Rex. Chancellor, Preſident, and remanent Lords of Seſſion, It "is our will, and we charge you, that ye, incontinent after the ſight hereof, admit our lo- "vit familiar clerk, Mr Henry Lauder, our Advocate, to ſit and remain in our council- "houſe, to hear and ſee delivering of bills, giving of interlocutors, deciſions, and deter- "minations of all cauſes and actions, ſwa that he may hear and know ſuch things as ſhall "happen to occur that concerns us; exceptand always the actions and cauſes for the "whilks he beis Advocate, and ſpeaks for at the bar allenarly." In conſequence of this letter, the Lords took his oath to be ſecret, and received him into the inner houſe.

Note 11. *Mr John Sinclair, Dean of Reſtalrig.*

Afterwards Biſhop of Brechin, and Preſident of the court of Seſſion.

Note 12. *Dr John Gladſtaines.*

Licentiatus in legibus, as he is often termed. 19th March 1554, he is termed *My Lord Doctor*.

Note 13. *Robert Reid, Biſhop of Orkney.*

Formerly Abbot of Kinloſs. I am not certain of the time of his admiſſion. His predeceſſor, the Abbot of Cambuſkenneth, does not appear in court after 9th March 1542-3. See an account of the deeds of munificence and charity performed by Biſhop Reid, in *Mackenzie's lives of Scots writers*, vol. 3. p. 46. While one of the ambaſſadors to France for the marriage of Mary Queen of Scots with the Dauphin, he died at Dieppe 14th September 1558.

He wrote "a geographical deſcriptior of the iſlands of Orkney, and a genealogical and "hiſtorical account of the family of Sinclair." So ſays Dr Mackenzie. But it is more probable, that Biſhop Reid only certified the authenticity of thoſe treatiſes: for Nicolſon ſays, *Scottiſh Hiſtorical Library*, that they were ſigned by the biſhop and his chapter.

Note 14. *Sir Robert Carnegie of Kinnaird.*

His commiſſion, from James Earl of Arran, Governor, makes mention, " That there are " diverſe of the college deceaſed, and others abſent, wherethrough they are not a ſufficient " number to decide cauſes." The Lords, at his admiſſion, of his own conſent, " decerned, " that he ſhould have no profit of the ſaid ſeſſion while [until] there vaiked a place of one " of the Lords Temporal, who had profit thereof before."

Note 15. *John Hamilton, Archbiſhop of St Andrew's.*

George Durie and he were admitted ſupernumeraries. They had been formerly judges; Hamilton while Abbot of Paiſley, Durie while Abbot of Dumfermline. I know not upon what occaſion they were removed. The tragical fate of Archbiſhop Hamilton in 1571 is well known. Buchanan, in ſeveral ſatirical epigrams, ſpeaks of the manner of his death with moſt illiberal and ſavage exultation.

Note 16. *Sir John Bellenden of Auchinoul.*

He was Clerk-Regiſter. Dr Mackenzie has aſſerted, in his *Lives of Scots writers*, vol. 2. p. 595. that this John Bellenden is the ſame perſon with the Archdeacon of Moray, who tranſlated the Chronicle of Hector Boece, and was diſtinguiſhed as a poet in the reign of James V.

Beſides the ſimilitude of names, the only reaſon that I know for this aſſertion, is in Bellenden's *Proheme of the Coſmographe*; where he thus ſpeaks:

" And fyrſt occurrit to my remembering
" How that I wes in ſervice with the King
" Put to his Grace in yeris tendereſt
" Clerk of his Comptis"

Dr Mackenzie gravely ſays, That " Clerk of his Comptis " is Clerk-Regiſter.

Note 17. *Sir Richard Maitland of Lethington.*

January 7. 1561. The Lords ordained the macers to ſuffer one of the old Laird of Lethington's ſons to come within all the bars as the procurators do, and to iſh as they do, for awaiting on his father, for the notoriety of his father's infirmities.

May 11. 1584. " The Lords underſtanding the great age of the Lord Lethington, they " exeemed him, in all time coming, from examination of witneſſes, providing he cauſe his " ſon, [Thirleſtane], or his goodſon, the Laird of Whittingham, uſe the outer tolbooth " for him, in calling of matters, and reporting the interlocutors, as uſe is."

July 1. 1584. The King's letter upon this occaſion is remarkable. It bears, " That Sir " Richard Maitland had ſerved his grandfire, goodfire, goodame, mother, and himſelf, " in many public charges, whereof he dutifully and honeſtly acquitted himſelf; and ha- " ving been many years a ſenator, he has with much ſincerity and integrity ſerved therein; " and being grown greatly debilitated through age, though nothing in ſpirit and judge- " ment: whereupon the Lords have granted him immunity and licence to attend when he " pleaſes,

" pleaſes, having all commodities as if he were preſent: yet moved in conſcience, leſt ju-
" ſtice ſhould be retarded by his abſence, he has willingly demitted his room in our hands
" in favour of Sir Lewis Ballenden." The ſalary is reſerved to Sir Richard during his life. James IV. the King's grandſire, [or great-grandfather], was ſlain 1513; ſo that Sir Richard Maitland was employed in public offices for upwards of ſeventy years.

His advice to Queen Mary deſerves to be recorded as the advice of a judicious and faithful counſellor: " That ſhe muſt ſee her laws kept, or elſe ſhe would get no obedience." *Knox.*

He wrote " The hiſtory of the family of Winton." —— Dr Mackenzie, *Lives of the Scots writers*, vol. 3. gives large extracts from it.

" Deciſions of the court of ſeſſion, from 15th December 1550 to 30th July 1565." *MS. Advocates Library.*

" Poems on ſeveral ſubjects," in the Pepyſian Library. —— Some of them are printed in the *Ever-Green.*

Note 18. *Henry Sinclair, Biſhop of Roſs, Preſident.*

March 21. 1561. He repreſented to the court, " That he was, at the will and pleaſure
" of God, troubled with infirmity and ſickneſs, ſo that he might not goodly await daily on
" the ſeſſion, but danger of his perſon." He therefore deſired the Lords " to have con-
" ſideration of his long ſervice in the ſeſſion, for the ſpace of theſe twenty-four years by-
" paſt." The Lords conſented, " That he have leave, privilege, and freedom, to come and
" be abſent frae the ſaid ſeſſion as he beſt pleaſes, and thinks expedient; and that he bruik
" all privileges, immunities, and freedoms, enduring his lifetime, in all points, as if he were
" perſonally preſent with the ſaids Lords, except the common contribution now inſtandy
" uſed, whereof none are participant but conform to their reſidence."

Note 19. *Mr Archibald Dunbar.*

January 7. 1578. The Lords excuſed his attendance, " becauſe he *dare* not repair to
" theſe parts through deadly feud and enmity betwixt him and his chief the Laird of Cum-
" moch, and their friends, and the ſirname of Innes, according to his ſupplication ſent
" to the Preſident."

The excuſes of abſence made by any of the judges, and accepted by the court, are generally inſerted in the more ancient books of ſederunt. Some of them are here inſerted on account of their ſingularity.

December 19. 1578. Mr Patrick Vanſe of Barnbarrow excuſed becauſe of the notoriety of the ſoreneſs and infirmity of his legs.

January 9. 1578. The Lords excuſed Whittingham, and Mr Archibald Douglas, parſon of Glaſgow, becauſe the parſon has contracted a ſoreneſs in his halſe, [throat]; wherethrough his brother and he remain together, while God ſend better fortune to them.

July 4. 1582. They allowed James Meldrum, apparent of Segy, to paſs to the King's ſervice of Aires of Perth, and alſo to his ſiſter's marriage; and declared him free of all penalty for offence in times paſt; and *diſpenſed with his abſence in all time coming.*

January 7. 1584. The Dean of Moray excuſed, becauſe his daughter is contracted to be married preſently.

May 15. 1589. Mr James Elphinſtone of Innernochtie excuſed, becauſe lately married.

November 29. 1595. Andrew Wemyſs of Myrecarnie excuſed till the 11th of December, becauſe of his late harveſt.

June 28. 1600. Lord Edzell excuſed during his being in ward.

Note 20. *Mr John Wood. Extr.*

This is probably the perſon who was ſecretary to the Earl of Moray, Regent. Melvill terms him "a great ringleader," p. 93.

Note 21. *Mr John Leſley.*

This is the celebrated Biſhop of Roſs. See a catalogue of his works in *Mackenzie's lives of Scots writers, vol. 2. in fin.*

Note 22. *Adam Bothwell, Biſhop of Orkney.*

The letter in his favour bears, "Providing always ye find him able and qualified for "adminiſtration of juſtice, conform to the acts and ſtatutes of the college of juſtice." This clauſe is here inſerted for the firſt time.

Note 23. *Mr David Chalmers of Ormond.*

He left Scotland, and retired into Spain. He afterwards ſettled in France, where he compoſed and publiſhed the following books.

1. "Hiſtoire abregée de tous les Rois de France, Angleterre, et Ecoſſe. 8vo."

2. "La recherche des ſingularitez [les] plus remarkables concernant l'eſtat d'Ecoſſe, "1579. 8vo."

3. "Diſcours de la legitime ſucceſſion des femmes aux poſſeſſions de leurs parens, et du "gouvernment des princeſſes aux empires et royaumes, 1579. 8vo."

On the 21ſt June 1586, Mr John Bartane, Dean of Dunkeld, was, in conſequence of the act of pacification, obliged to yield his ſeat on the bench to Mr David Chalmers, the former poſſeſſor.

Note 24. *Sir William Maitland of Lethington.*

The Queen having deſired the Lords to find forth a man among themſelves whom they judged moſt fit for ſupplying the vacancy of an ordinary Lord, and to make the nomination without affection or favour, they named her ſecretary, Lethington; and ſhe approved of the nomination.

Note 25. *Mr John Wood of Tilliedavy.*

There were ſome particular circumſtances attending his readmiſſion. May 18. 1566, the Queen informed the court, that the Commendator of Kilwinning had given his ordinary

dinary place to the Sub-chantor of Moray for an extraordinary place; and ſhe ordered them to retain the Commendator in his extraordinary place, notwithſtanding his abſence in foreign parts; and " to receive no other in his room for any writing given or to be " given by us in the contrair." The Lords declared that they would obey this order. Nevertheleſs, 12th June 1566, a letter from the Queen to the Lords was produced, bearing, " That whereas our lovit Mr John Wood of Tilliedavy was one of the number " of our ſeſſion, while his putting to the horn, and paſſing forth of the realm, he was " diſplaced; notwithſtanding whereof, for certain cauſes, we repone him to an extraordi- " nary place; and crave you may receive him without ſtop." The only extraordinary place which could poſſibly be conſidered as vacant, was that formerly poſſeſſed by the Sub-chantor of Moray; and in it the Queen had already ordered the Commendator of Kilwinning to be retained. The court knew not which order to obey; and therefore deſired the Chancellor to *try the Queen's mind*, which of the ſaid two perſons ſhe would have received into the extraordinary place. *The Queen's mind* was ſomewhat ſingular: " That " the Commendator ſhould have the place; but if Mr Wood inclined to uſe it till the " Commendator returned to Scotland, then the court might receive him; otherwiſe not." Upon theſe terms Mr Wood accepted the place, and was received.

November 12. 1566. The Commendator having returned to Scotland, was received into his extraordinary place. Upon this Mr Wood preſented a letter from the Queen, ordaining him to be received into the place of any extraordinary Lord who may be abſent; and to be received to the firſt vacancy of the place of an ordinary or extraordinary Lord. The Lords obeyed the former part of the order; but refuſed the latter, leaving Mr Wood to make his application to the Queen in the event of an actual vacancy.

Note 26. *Sir James Balfour, Preſident.*

The reaſon aſſigned for this promotion was, That the Preſident was originally of the *eccleſiaſtical ſide*; whereas Provand was of the temporal. Not very conſiſtently with this, Provand was declared to be Preſident in the abſence of Sir James. " The Lord Provand " aſked inſtruments of the votes of the Lords, in preſence of the Regent; and that he diſ- " ſented therefrom for his honour."

His *Practics* were publiſhed in folio in 1754. That this voluminous work is interpolated, cannot be denied; for it mentions certain acts of parliament, and the names of certain Peers that did not exiſt till after the death of Balfour. *Vid.* p. 71. 178. *&c.*

Mr Walter Goodall prefixed to the *Practics* a life of the compiler, in the ſtyle of his vindication of Q. Mary.

Note 27. *John ———, Commendator of Coldingham.*

The *modus vacandi* is, " becauſe of the parſon of Egliſham his inability, and diverſe of- " fences committed by him, whilk merits his deprivation."

Note 28. *Mark Ker, Commendator of Newbottle.*

In the room of the Biſhop of Galloway, whoſe place " vaiks by his continual abſence."

Note

Note 29. *Mr Robert Pont.*

Under the name of *Pontanus*, he wrote, *De unione inſulæ Britanniæ.* 8vo. *Edin.* 1604. He was the father of Timothy Pont, the celebrated chorographer of Scotland. *Nicolſon's Scottiſh Hiſtorical Library*, p. 107.

Note 30. *Mr Patrick Vanſe of Barnbarrow.*

In the room of Mr Robert Maitland, Dean of Aberdeen, " whoſe place was vacant by his " inability."

Note 31. *Lord Boyd.*

The circumſtances of his readmiſſion were ſingular. The King wrote a letter to the court, bearing, that " he had lately, 8th May 1578, ordained the Maſter of Gray to be " received into the extraordinary place of Robert Lord Boyd, though he had neither " demitted his place of his own good will, nor yet was he removed through any offence, or " occaſion miniſtrated by him, but ſimply upon narratives made to us in his abſence; and " now ſince the ſaid Lord Boyd attends diligently, and we and our eſtates of parliament " have choſen him to be one of our privy council, we require you, and it is our reſolute " will and meaning, to receive him again to his extraordinary place, removing hence the " Maſter of Gray." The Lords obeyed this order.

Note 32. *Mr John Maitland of Thirleſtane.*

Afterwards Vice-Chancellor, Secretary of State, Preſident of the court of Seſſion, and at laſt Chancellor. Robert Johnſton, *Rer. Brit. Hiſt. l. 7. p.* 204. draws his character in the following terms: " Is meritus, æquitate in rebus judicandis, ſolertia ingenii, peritia " uſuque rerum, ut ad poſteritatis memoriam fama celebris eſſet. In prima juventute multis " diſcriminibus obnoxius; poſt calamitatem Ledingtoni fratris, aliquandiu latuit; provecta " ætate gradatim honores et publica reipublicæ munera adeptus, non ſine magna invidia " procerum adminiſtravit, quam immodicis jocis provocavit. Supervacaneum eſt ſingula " maledicta referre, per quæ in proceres inimicoſque ſuos contumelioſus fuit. At ſpecimen " excelſi animi ſemper edidit: inter adverſas factiones, magnam laudem prudentiæ in- " duſtriæque tulit; reliquit clariſſima monumenta doctrinæ ſuæ, Epigrammata Latino ſer- " mone conſcripta. Seneſcente invidia, quam dies mitigavit, fama ejus vario ſermone " vulgi celebrata; *quibuſdam natura dicacior viſus, et ne inter tempora curarum verbis facetis* " *ſatis temperans; alias, ubi officio ſatisfecit, lenis, remiſſus, urbanus, procul a triſtitia aut* " *ſeveritate, jocos temperatos ſeriis permiſcens.*"

The

The following epigram on the Maſter of Gray may ſerve as a ſpecimen of that ſatirical humour which created ſo many enemies to this great and learned man.

Sis Paris an Graius dubito; pulchelle, videris
Eſſe Paris, forma, marte, et amore, pari.
Fax etiam patriæ, nec fato aut omine differs;
Græca tamen Graium te docet eſſe fides
R. Johnſton. Rer. Brit. Hiſt. l. 4. p. 422.

He knew, however, to pay his court by his poetry: for he made a Latin tranſlation of the epitaph on Sir Philip Sidney, by King James, *Deliciæ Poetarum Scotorum, vol. 2. p. 138.*; and of "his Majeſty's own ſonnet," *King James's works, p. 89.*

Note 33. *Mr David Macgill.*

June 26. 1582. He was admitted King's Advocate, in the place of Mr Robert Creighton, deceaſed His commiſſion bears, "That he received L 40 Scots of feal and duty, payable at two terms in the year" The Attorney-General of England has a retaining fee from the King, which is called L. 85 Sterling, but, after deductions, is L. 81 : 6 : 8.

Note 34. *Mr John Graham of Hallyards.*

Mr Robert Pont, a Preſbyterian miniſter, was incapacitated by the act 133. parl 1581, paſſed on the 22d May; ſo that his place was inſtantly ſupplied. On this ſame 23d May Captain James Stewart, Earl of Arran, appears for the firſt time as Chancellor. Mr John Graham had attached himſelf to this perſon. He officiated as Juſtice-Depute at the unpopular and odious trial of William Earl of Gowry.

"It was thought the convention of eſtates, in 1590, would have proceeded to depoſe "ſome of the Lords of Seſſion, and to bring about a reformation therein. Some accuſa- "tions and challenges paſſed in the mean time betwixt Mr John Graham of Hallyards, "one of the Lords of Seſſion, and Mr David Macgill the Advocate, each of them ac- "cuſing the other of leading of falſe proceſs, of bribery, ſelling of actions, and other "things." *Moiſe's Memoirs, p. 172.*

Note 35. *Sir Lewis Bellenden of Auchinoul.*

November 27. 1578. He was admitted to be preſent at the Lords adviſing of cauſes, and voting, in virtue of the King's letter; which bears, That the clerk of juſticiary was ever of the number of ſenators; "which place the ſaid Sir Lewis cannot exerce, *by reaſon of his "nonage.*" This expreſſion probably means, that he was under twenty-five.

Note 36. *Mr Mark Ker, Commendator of Newbottle.*

His commiſſion bears, "To remain therein during our will and pleaſure."

Note 37. *Mr Andrew Wemyſs of Myrecairnie.*

Auguſt 14. 1591. The King named Mr Thomas Ballantine to the place of an ordinary Lord, in the place of Lord Newtyle, deceaſed.— *November* 12. 1591. This nomination was delivered back to the King, preſent in court, by one of the clerks of ſeſſion.—*November* 17. 1591. Andrew Wemyſs of Myrecairnie produced a nomination from the King to the ſame place; " becauſe there is no perſon truly and really provided thereto with ſick due form " and ſolemnity as accords."

Note 38. *Sir John Cockburne of Ormiſtoune.*

R. Johnſton, *Rer. Brit. Hiſt. l.* 6. *p.* 174. gives the following curious relation of the cauſe and manner of his death.

" Sandelandius, Calderii Comarchus, mortuo patre in puerili ætate, pupillus relictus " eſt, ſub tutela Jacobi Sandelandii Equitis. Ex interiore principis familiaritate defunctus, " indulgens uxori, villam et fructuoſum agrum, non dotis nomine, ſed hæreditario jure " attribuit. Per idem tempus, Johannes Gramus, judex rerum criminalium, lucri cupiditate " inductus, viduæ nuptias paciſcitur; et mulier dedita viro, ut amorem et obſequium pro- " baret, agrum quem a priore marito acceperat, cum fructibus, arbitrio novi conjugis per- " miſit. Is, ſpe gratiæ et potentiæ, de prædiis ruſticis pupillo litem intendit. Jacobus San- " delandius, infenſus ea lite, cedere juſſit; et tutelam ita geſſit, ut fratris filio, cui tutor " erat, propugnatorem ſe pertinaciſſime præſtaret. Gramus nihilominus obſtinatus, jus " proſequi immoderatius auſus eſt; et pupillum, callidis artibus, ac juris ſpecie, opimis præ- " diis ſpoliavit. Sandelandius, nepotis, veluti fraude circumventi, recenti injuria provoca- " tus, et in vindictam pronus, Gramum trucidare conſtituit, in omnem patrandæ cædis oc- " caſionem intentus. Rex rumore certior factus, judicum principi exitium imminere, im- " pedire rem non deſtitit; et edicto ultra Bodotriam ſummovit, præſenti malo unicum re- " medium ratus. Gramus paruit edicto, et comitatu non inermi propinquorum et clientum " urbe exceſſit, ut paratus eſſet, ſi quid adverſarii contra molirentur. Unde Sandelandius, " ira et impetu, peſſimis conſultoribus, abreptus, multiplici comparata clientela, intoleran- " dam Grami injuriam amicis expoſuit: qui facile in cædem ejus conſenſerunt, et rei ag- " grediendæ ſignum expectarunt. Cum hac manu ſævum atque atrox facinus ag- " gredi eſt auſus, in ſuburbio urbis regiæ. Gramum clientes plurimi deſeruerunt; pauci " protexerunt: ipſe obſtinatus ad reſiſtendum, magna cum invidia jugulatur.—— Actores " ſceleris non ſolum pœnæ exempti, ſed aula et conſpectu Regis vix abſtinuerunt. Ingen- " tem ea cædes fremitum in tota Scotia fecit."

From this narrative it would appear, that the King of Scotland was obliged to baniſh a judge of the court of ſeſſion, in order to protect him from aſſaſſination.

Spottiſwoode, however, p. 391. relates this event in a different manner.

" Some two days before his [Fintry's] execution, Mr John Graham, one of the Senators " of the College of Juſtice, being charged (becauſe of the buſineſs he made in behalf of " Fintry) to depart forth of the town, and keep ward in Strathern, was killed as he was " going to the tide at Leith. There had been a queſtion long depending betwixt Sir James " Sandilands and him for the lands of Hallyards, and by reaſon thereof a profeſſed enmity a- " mong them; and it falling out, at the ſame time when he was going to Leith, that the " Duke of Lennox, accompanied with Sir James, and divers others, was making towards " their

" their ſport in the ſands, Mr John Graham, apprehending that they did purſue him, made " a turn upon that aſcent which is without the gate of the town, as if he would ſtand there " to his defence: which Sir James taking for a ſort of provocation, he made towards him, " and entering in conflict, Sir Alexander Stewart, a grave gentleman, ſervant to the Duke " of Lennox, was killed by the ſhot of a piſtol: preſently after Mr John Graham by another " ſhot was ſtricken in the breaſt, and fell to the ground. They who did give him the con- " voy, ſeeing him fall, did all fly; and the companies ſeparating, he was led to a poor cottage " near unto the place, and, as he lay in bed, killed by the ſaid Sir Alexander his page, in " revenge of his maſter's death.

" A man he was, but meanly born, and deſcended of that unhappy race which had an " hand in the murder of King James I. A long time he ſerved as deputy to the Earl of " Argyle in the juſtice-courts, and after his death waited on Captain James Stewart, by whoſe " means he was preferred to be one of the Senators of the College of Juſtice, in the place of Mr " Robert Pont: of a quick wit, and a good and ready utterance; but was exceſſively proud, co- " vetous, and unhoneſt in his dealings, as appeared in ſuborning of the notary of whom we " ſpake, and the fraud which he uſed to Mr Andrew Polwart, Subdean of Glaſgow, a man " of great learning, who being forced to fly into England, in the year 1584, with the other " miniſters that took their refuge thither, had intruſted him with his living and rent, upon " aſſurance to be repoſſeſſed when the time ſhould change; yet being returned, and having " obtained his peace, could never bring him to fulfil his promiſe; whereupon, after a " long plea at law, not finding an outgate, the honeſt man conceived a diſpleaſure, and " died."

Note 39. *Mr John Skene of Curriehill.*

Melvil ſays, " I told his Majeſty, that I would chuſe to take with me, [on an embaſſy " to Denmark], for a lawyer, Mr John Skene. His Majeſty ſaid, He judged there were " many better lawyers. I ſaid, He was beſt acquainted with the German cuſtoms, and " could make them long harangues in Latin; that he was a good true ſtout man, like a " Dutchman." p. 178.

He is known for his editions of the *Regiam Majeſtatem*, and *Old laws of Scotland*; as alſo for his treatiſe *De verborum ſignificatione*. It were to be wiſhed that his knowledge of Scottiſh antiquities had been equal to his induſtry.

Note 40. *Mr John Preſton of Fenton-barns.*

The King named Mr Peter Rollock, Biſhop of Dunkeld, Mr David Macgill of Cranſton-Riddel, and Mr John Preſton of Fentoun, requiring the Lords to chuſe the fitteſt of the three to be an ordinary Lord of Seſſion. The Lords were ſolemnly ſworn to chuſe according to their knowledge and conſcience. In conſequence of this, *conjectis in pileum nominibus*, [by ballot], the Lords elected Mr John Preſton. The abridger notes, " That he " was a baker's ſon in Edinburgh, was made a Commiſſary 14th May 1580, and afterwards " came to be Preſident of the court."

Note

Note 41. *Mr David Macgill of Cranſton-Riddel.*

Robert Johnſton, *Rer. Brit. Hiſt. l. 7. p.* 231. mentions a circumſtance concerning the court of ſeſſion at this period, which is exceedingly ſingular. " Hac tempeſtate, totus ordo " judicum, paucorum improbitate et audacia infamatus : inveteravit enim opinio, et om- " nium ſermone percrebuit, *pecunioſum hominem neminem potuiſſe cauſa cadere.* Alexander " Regius [King] Advocatus, acer et vehemens, illam labem et ignominiam ordinis callide " obſervans, a clientibus ſuis pecuniam accepit, quam corruptis judicibus, pro ſuffragiis, " divideret. Hæc et ſimilia in cauſa fuere, ut totus ordo gravi diuturnaque infamia la- " boraret. Neque enim aliam ob cauſam, plebs miniſtrorum tribunitiam poteſtatem tanto " ſtudio proſecuta eſt, niſi ut in concionibus audiret judicum officium male ac flagitioſe ex- " erceri, judicia turpia ac flagitioſa fieri."

Note 42. *Sir James Wemyſs of Bogie.*

From 24th February 1604 to 19th June 1605, there is a blank in the regiſter. Many leaves have been loſt out of it. During that interval, it would ſeem that *Bogie*, *Wrights-lands*, and *Craigtoun*, were admitted in the room of *Myrecairnie*, *Auldbar*, and ſome third perſon, whom I cannot diſcover.

Note 43. *Mr Thomas Hamilton of Preſtonfield.*

The manner of his trial is particular. The Chancellor, in preſence of the Lords, appointed him next day to open and explain the *l.* 2. *C. d. Teſtibus*, and to diſcourſe upon it in Latin, and then to reſume cauſes, and give his opinion. Then follows, 29th May 1607, " The ſaid Mr Thomas compeared ; and after reading that *l.* 2. and gloſs thereof, having " exponed it in Latin be the ſpace of a quarter of an hour ;" and having alſo reſumed ſome cauſes, and given his opinion, he was admitted. He took an oath, That, neither directly nor indirectly, he had procured the place by gold or ſilver.

Note 44. *Sir Alexander Drummond of Medhope.*

The King's letter requires the Lords to take trial of his qualifications, and thoſe of Mr Peter Rollock of Piltoun, and Mr Thomas Henderſon, Advocate, and to admit the beſt qualified. Sir Alexander himſelf is admitted. Upon other occaſions alſo it appears, that the preſenter of the letter was found the beſt qualified.

Note 45. *Peter Rollock of Piltoun.*

He had been formerly removed when Biſhop of Dunkeld, that the number of extraordinary Lords might be reduced to four. He was now readmitted upon the King's letter, with a ſpecial proviſo, That this ſhould not be a precedent for eſtabliſhing a fifth extraordinary Lord.

Note

Note 46. *Sir Gideon Murray of Elibank.*

The Lords diſpenſed with any trial of his qualifications, " becauſe of the certain know-" ledge they had of them."

Note 47. *Thomas Hamilton, Preſident, Lord Binning.*

In 1587 he was admitted an Advocate; 1592 he was made an ordinary Lord of Seſſion; 1595 King's Advocate, and one of the Octavians; 1612 Lord Regiſter, Secretary of State, and King's Advocate for life; 1613 Lord Binning and Byres; 1616 Preſident of the court of Seſſion; 1619 Earl of Melroſs; 1627 Earl of Haddington, and Lord Privy Seal. He died in 1637.

" In foro ſummum auctoritatis atque eloquentiæ gradum obtinuit; et multa fructuoſa " prædia, ſine injuria cujuſquam, poſſedit." *R. Johnſton, Rer. Brit. Hiſt. l.* 8. *p.* 244. He made great part of his fortune out of the mines in his eſtate.

Dr Arthur Johnſton draws his character thus:

" Plus nulli Fortuna dedit de gente Britanna,
" Fortunam nemo tam reverenter habet."

He drew up Deciſions of the court of ſeſſion, from 1592 to July 1624, *MS. Advocates Library.* His Manuſcript collection of charters, *&c.* are well known.

Note 48. *Sir George Ereſkine of Innerteil.*

He drew up ſome deciſions of the court of ſeſſion, while he ſat on the bench.

Note [48.] * *Sir Alexander Gibſon of Durie.*

Of him Mr Robert Burnet of Crimond thus ſpeaks, in his preface to Craig, *De Feudis.* " Oculatus fui teſtis ſæpe, per ſpatium 24 annorum, cum eum aliquando honoris cauſa, ali-" quando ob negotia, interpellarem, nunquam eum a me deprehenſum niſi occupatiſſi-" mum in jure Civili, et doctoribus juris evolvendis; jus enim Scoticum in ſcrinio pectoris " geſtabat, et ut conjicio in jure Civili cum jure Scotico maritando."

He drew up " Deciſions of the court of ſeſſion from 11th July 1621 to 16th July 1642." They were publiſhed by his grandſon Sir Alexander Gibſon, with an approbation of the court. *Acts of Sederunt*, 6th July 1688.

Note 49. *Sir Robert Spottiſwoode of New-Abbay.*

Second ſon of Dr John Spottiſwoode, Archbiſhop of St Andrew's, and Chancellor of Scotland. On the 1ſt of November 1633 he was choſen Preſident of the court of Seſſion, upon the King's recommendation: he continued to exerciſe that office till the end of the year 1637; when, being obnoxious to the leaders of the popular party, and declining to

* The reference to this note was omitted in the Catalogue.

take the covenant, he abſtained from attending the court. In 1641 he was declared one of the *incendiaries*, or evil counſellors. The parliament of Scotland, in that year, addreſſed the King, that Sir Robert Spottiſwoode might be removed from about his perſon. In 1645 he was made Secretary of State, in the room of the Earl of Lanark. He attended the Marquis of Montroſe in his unfortunate march towards the Tweed after the battle of Kilſyth. He was taken priſoner at the rout near Philiphaugh, 15th Auguſt 1645. A ſtatute had been made in June 1644, which declared the taking up arms againſt the kingdom and eſtates of Scotland to be treaſon; on this ſtatute Sir Robert was tried, and found guilty, by a committee of parliament, 16th January 1646. The parliament ordered him to be beheaded. The ſentence was executed at the market-croſs of St Andrew's, 20th January 1646.

The Earl of Caſſilis, Preſident of the court which tried him, diſſented from the judgement; although, in virtue of his office, he ſigned it. This circumſtance is mentioned by Sir John Niſbet of Dirleton, who was of counſel for Sir Robert, in an elegy on his death.

" Teſtatus ſcripſiſſe manu non mente, placebat
" Quodque aliis fruſtra diſplicuiſſe ſibi."

The particulars of his trial and execution are to be found in *Memoirs of his life*, prefixed to his *Practics of the law of Scotland*, publiſhed in folio, 1706, by his grandſon Mr John Spottiſwoode, Advocate.

Note 50. *Sir John Hamilton of Magdalens.*

The records of the court of ſeſſion, from 17th May 1608 to 2d February 1626, are loſt; ſo that it is probable that this catalogue is not altogether complete during that period. Sir John Hay was on 27th July 1622 admitted Clerk-Regiſter. It is probable that he was a Lord of Seſſion long before; but the date of his admiſſion is not known.

Note 51. *Sir Archibald Napier of Merchiſtoun.*

He was the ſon of the famous Merchiſtoun.

Note 52. *Sir George Auchinleck of Balmanno.*

He drew up ſome deciſions of the court of ſeſſion while he ſat on the bench.

Note 53. *Sir Archibald Acheſon of Glencairnie.*

He had been Puiſne Judge in Ireland. He was knighted for having ſuggeſted to Charles I. the meaſure of iſſuing out a commiſſion under the great ſeal for the ſurrender of tithes, *Heylin's life of Archbiſhop Laud, p.* 224. 225. During a few years he was Secretary of State for Scotland.

Note

Note 54. *Lord Ereſkine.*

The reader will obſerve, that at this time there was a total change of the extraordinary Lords. The reaſon aſſigned for this by the King, in making the new nomination, is ſingular. He ſays, That at the time of his appointing the extraordinary Lords now diſplaced, "we declared our reſolution to change them after ſome reaſonable ſpace; *though we do* "*acknowledge that they have very faithfully behaved themſelves* in that which did con- "cern their charge; for which we give them very hearty thanks: *yet to continue our firſt* "*reſolution and privileges,*" &c.

Note 55. *Sir John Scot of Scotſtarvet.*

Better known for his ill-informed ſatire, *The ſtaggering ſtate of the Scots ſtateſmen*, 12mo, 1754, than for his patriotic labours in promoting the publication of the *Theatrum Scotiæ*. Concerning this, ſee many curious particulars, though affectedly expreſſed, in the preface to the *Theatrum Scotiæ* by the younger Blaeu. He was alſo at the expence of printing the *Deliciæ Poetarum Scotorum*. 2 vols, 24mo. 1638. There is a MS. volume of letters to him, from learned men, in the Advocate's Library.

Note 56. *Lord Lindſay.*

Afterwards Earl of Crawfurd.

Note 57. *Sir James Hope of Hopetoun.*

In conſequence of an act of parliament 1649, the following nine judges were removed for what was then termed *malignancy*; *Innerpeffer*, *Orbieſton*, *Carmichael*, *Balcomie*, *Halkertoun*, *Durie*, *Lee*, *Newton*, Earl of *Crawfurd*. In their room the parliament appointed, *Hopetoun*, *Broomhall*, (deſigned in the reſcinded acts, *Gellats*), *South-hall*, *Ford*, *Clerkingtoun*, *Libbertoun*, *Brodie*, *Hartree*, *Ceſnock*, Earl of *Caſſilis*. It does not appear that *Ceſnock* ever took his ſeat.

Note 58. *George Smyth, Eſq;*

The ſalary of an Engliſh judge was L. 600 Sterling, of a Scots judge L. 300; the three Clerks of Seſſion had L. 200 each; the Clerk of the Bills L. 200; Director of the Chancery L. 100; Clerk of the General Regiſter of Hornings L. 100; Clerk of the General Regiſter of Seiſins L. 100; Receiver of the Fees L. 140; Doorkeeper L. 40. *Thurloe's State-papers, vol. 4. p. 528.*

The Engliſh judges, on the 9th November 1654, wrote a letter to Judge Smyth, one of their number, then at London, praying, that he would deal with the Protector, "That "ſome of the Scottiſh nation may be added to their number."

There

There is a tradition, that equal juſtice was adminiſtered by the Engliſh judges during the uſurpation; and for this an invidious reaſon is aſſigned, That they were *kinleſs*, and unconnected with the people of Scotland. The following letter from General Monck to Secretary Thurloe, *Thurloe's State-papers*, *vol.* 6. *p.* 65. may ſerve to ſhew, that they were ſometimes thought to be influenced by other conſiderations than thoſe of duty.

HONOURED SIR,

Being earneſtly deſired by the Laird of Buchanan (who is one that hath been very faithful and ſerviceable to us) to write to you in his behalf, I make bold to acquaint you, that his Highneſs, about two years ſince, was pleaſed to grant an order to the judges in favour of Lieutenant Oſborne, between whom and the ſaid Buchanan there was a ſuit depending, whereupon a decreet was paſſed againſt the ſaid Buchanan; which truly I am perſuaded, if his Highneſs had been rightly informed, he would not have done: for I am perſuaded, if it had not been for his Highneſs's order, the buſineſs would have gone on Buchanan's ſide. And all that he now deſires is, that his Highneſs would be pleaſed to grant an order to leave it to the judges to proceed upon the hearing of the whole, according to juſtice, and the laws and practice of this nation: for the procuring of an order to which effect, I intreat you to ſtand the ſaid Buchanan's friend to his Highneſs, he being both an honeſt and diſcreet gentleman, and one who hath carried himſelf ſo faithfully to the preſent government, that I know few deſerve better, notwithſtanding ſome hard dealing he has had from us.

I remain, *&c.*

Dalkeith, 17th February 1655-6.

Note 59. *Mr John Swinton of Swinton.*

He was appointed one of the council; but continued for ſome time after to ſit as a judge. This occaſioned Lord Broghill, Preſident of the Council in Scotland, to write to Secretary Thurloe in the following terms: "Some of the judges ſtick not to ſay, that acting in two "capacities does not only overawe ſome that ſit on the judicial bench, but that thereby the "number of Scotch judges does exceed the number of the Engliſh; whereby the words, "*according to equity and good conſcience*, which are indeed the only words in their com-"miſſions that give a riſe to bring the laws of Scotland to the laws of England, will be ren-"dered uſeleſs; for all thoſe who are Scots are much averſe to that expreſſion, and plead "hard to keep the judges to the known ſtatute-law, vol. 4. p. 524." This is a very remarkable paſſage. The reader will obſerve, that, under the pretext of judging *according to equity and good conſcience*, there was an intention of abrogating the law of Scotland, and introducing that of England in its place.

Note 60. *Mr Andrew Ker.*

Lord Broghill thus writes to Secretary Thurloe: "Since Colonel Lockhart and Mr "Swinton's being made of the council here, the court of juſtice have had but five judges to "carry on that duty. By their commiſſion four is a quorum; and by the rules of the "court, it conſiſts of two houſes, the one termed the *outward*, and the other the *inward* "*houſe.*

" *houſe*. *This* cannot have leſs than four; *that* never had more, neither can it have leſs " than one." After having deſcribed the manner of proceeding in the outer houſe, he adds, " The judge of which houſe ought to be an able man, both of parts and body, the " work requiring good intellectuals and experience, as well as corporal ſtrength. For " want of ſuch a one, all cauſes of late, which properly are to be determined there, have been " brought into the inward houſe, whereby four were employed in what one might have " done; and ſo the people had not that expeditious juſtice which was requiſite and uſual; " and thereby, as the judges inform me, there is at the preſent near 50000 proceſſes de- " pending *. This great ſtop of juſtice made the council eſteem it abſolute duty to remove " the cauſe thereof, by reſtoring the outward houſe, and placing a fit perſon to diſcharge " the burden thereof; which they have done this day, not being able any longer to delay " it, the judges themſelves in effect declaring the great neceſſity of it. The man they have " pitched upon is Sir James Lermonth of Balcomie. And becauſe it was found, few fit per- " ſons of the old Lords of the Seſſions were willing to act, and that ſuch as were, had had " ſome private meeting among themſelves, when they reſolved, none would accept a judge's " place, unleſs it were for life, or good behaviour, whereby they would, as much as in " them lay, have ſet the dice on the council; it inclined the council the more, not only " to chuſe Sir James Lermonth, as having been free from that engagement, and willing and " able to act, but alſo (to let all the other judges ſee we were not, nor needed not, be " bound up to their order) to elect, for another judge, one Mr Andrew Ker, an Advocate, " who the General and ſome of the Judges aſſured the council was an able godly man, " and had by divers actions evidenced his ſincere affection to the government. To which, " as a further reaſon for their ſo doing, may be added, that the duty of the outward " houſe would have deterred any one man from accepting it, had he not ſeen an able aſ- " ſociate, who might from time to time have eaſed him therein: for though there is one " Scotchman now upon the bench, *viz.* the Lord South-hall, yet he is wholly unable " for that work, and would not undertake it. Beſides, we underſtand there are ſome " things againſt him, which poſſibly will ſoon invite them to lay him aſide. I did acquaint " the council with a part of my Lord Lambert's letter to me, relating to the judges; which " imported, that we might ſpeedily expect to hear further therein; and that in the mean- " time, if poſſibly, we would delay electing any. But the neceſſity demonſtrated by the " judges, and viſible to the council, joined with the impoſſibility of having any from Eng- " land able to do the work of the outward houſe, made them proceed to that election at the " preſent; which will not hinder the receiving of any from England, if ſent; and in- " deed at leaſt one eminent man from thence will be neceſſary; which, I beſeech you, Sir, " be pleaſed to mind."

Note 61. *Mr James Dalrymple of Stair.*

Recommended by General Monck. Letter to Oliver Cromwell, *Edinburgh, 23d June* 1657, *Thurloe's State-papers, vol.* 6. *p.* 367. " I make bold to mention to your Highneſs, " one Mr James Dalrymple, as a perſon fit to be a judge, being a very honeſt man, a good " lawyer, and one of conſiderable eſtate. There is ſcarce any Scotſman, or Engliſhman " who hath been much in Scotland, but know him; of whom your Highneſs may inquire " further concerning him."

* This is incredible; probably there is a miſtake in the printing, and that 50000 is put for 5000.

The manner of his appoinment is ſingular, as appears from a letter of Monck's to Cromwell, *June* 26. 1657. *Thurloe, vol.* 6. *p.* 372. The letter being curious on many accounts, is here inſerted. " I am appointed, by your Highneſs's council here, humbly to " acquaint your Highneſs, that ſome few weeks ſince, the Lord South-hall, who was one " of your Highneſs's commiſſioners for adminiſtration of juſtice to the people in Scotland, " having departed this life, and it having pleaſed God now to take away from us the Lord " Balcomie, another of the ſaid commiſſioners, who died this forenoon in the houſe of the " ſeſſion of the ſaid commiſſioners, whereby the number of the ſaid commiſſioners is be- " come ſo few, that here are but four of them now upon the place, which is the leaſt num- " ber that can, by their commiſſion, act in the inner houſe: and the conſtitution of the " judicature being ſuch, that in an outer houſe, which is ſtill in uſe for judging of mat- " ters, not of ſo great moment or intricacy, as that either party concerned would inſiſt " upon having the judgement of the judges of the inner houſe in them, one of the judges " would determine and adjudge in many civil cauſes, which did ſpare much pains to the " whole judicature in deciding of cauſes of leſſer importance, and without which, proceedings " would be too ſlow. But this death of the Lord Balcomie hindering now the keeping of " the inner and outer houſe, which is that whole judicature together, the quorum now " left here being barely competent for the inner houſe; and it being the time of the ſeſſions, " which continues but for the months of June and July, the next ſeſſions not beginning " till the 1ſt of November, and great numbers of people being attending the diſpatch of " their cauſes there depending, your Highneſs's council here found themſelves in a ſtrait, " becauſe they apprehended, that, as it is neceſſary, for the carrying on of juſtice to the " people, another judge ſhould be appointed, who is very able in the laws and practice of " proceedings here, to keep the outer houſe, wherein the Lord Balcomie did frequently ſit, " having been one of the ableſt for it; ſo they would be very unwilling to place one in ſuch " a truſt, without your Highneſs's expreſs orders and appointment, if the adminiſtration of " juſtice, which they are, by their inſtructions from your Highneſs, appointed to ſee duly ad- " miniſtered, could be otherwiſe effectually proceeded in without intermiſſion.

" Yet, believing it to be your Highneſs's intention that they ſhould ſupply ſuch a pre- " ſent exigency, in a time ſo preſſing, they bethought, and have pitched upon a perſon of " eminent abilities, namely, Mr James Dalrymple, an Advocate, of whoſe qualifications " and good affections they have ample ſatisfaction, to be one of the ſaid commiſſioners, for " adminiſtration of juſtice, at the ſame ſalary which the Lord Balcomie had, being L. 300 " *per annum*, according to the eſtabliſhment of Scots judges; of which choice they hum- " bly crave leave to deſire your Highneſs's approbation."

Note 62. *Sir Archibald Johnſtone of Warriſton.*

He was appointed during pleaſure. This nomination could not be agreeable to Lord Broghill, Preſident of the Council in Scotland; for he thus writes to Cromwell: " Part " of the remonſtrators are led by the Laird of Wariſton, and Mr James Guthrie, who " are bitterly averſe to your Highneſs's authority, if not to any. Indeed, by as much as I " can recollect, after ſeveral diſcourſes and meetings with the Lord Wariſton, and Mr " Guthrie, thoſe of their judgement are, as I may call them, *Fifth-monarchy Preſbyterians*; " and, according to their principle, ſetting aſide ſome little ſhew of Preſbyterian diſcipline, " which yet they allow none to practiſe over them, but would practiſe it over all others, " they are nearer a cloſure with the late Allhallows men, [Fifth-monarchy men, who had " raiſed diſturbances], than any others." *Thurloe's State-papers, vol.* 4. *p.* 557.

Mr

Mr James Sharp, afterwards Archbiſhop of St Andrew's, gives the following account of a converſation he had with Jones, one of the regicides, concerning Warriſton. "He came "to ſpeak of Wariſton. This day, ſaid he, we have had an hour's ſpeech of Wariſton; "we have not much to do in our houſe, [the upper houſe]; and it ſpends our time to hear "him: he would be a fit member of the lower houſe; for he would be always ſpeaking. "I told him, I had heard of Wariſton's late declarations againſt Valentines, and a ſtage-"play, lately acted by Sir William Davenant: he laughingly ſaid, We have ſome ſuch "ſtories now and then.

"Then ſpeaking of Wariſton again, he ſaid, That at the appointment of the laſt faſt, "he had a ſpeech of an hour long, which he read off his note-book, as uſually he doth, "againſt the faſt; and yet, in the cloſe, he concluded poſitively for it. Lord Jones added, "You need not think that Wariſton, by his ſpeeches, will turn the houſe round. I per-"ceive," ſays Sharp, "he hath, by his ramblings, diſcovered his weakneſs, and loſt his repute "amongſt them; and it is like, if he hold on, that he will ſerve for interludes in that "houſe, as Cochran did in the houſe of Commons in the other parliament. One told me "this day, that a parliament-man had ſaid to him, that there was not one of the Scots mem-"bers who did ſpeak, or could ſpeak, in their houſe; but there was one in the other "houſe was always ſpeaking to little purpoſe." *Letter to Mr Robert Douglas, 22d February 1659, MS. in the Library of the Church of Scotland.*

The following letter from the ſame perſon is on many occaſions exceedingly curious.

"As for Wariſton, I have a letter of his to Lauderdale, by the laſt poſt, bearing, That "Monſieur Morus had wrote to him, *per ſanctam permiſſionem ſummarum poteſtatum*, "that he ſhould have his pardon, and be received into ſpecial favour and truſt, if he did "not obſtruct the entry of the King; and having, in his confuſed large way given him a "deduction of the particulars of his carriage, diſclaiming acceſſion to the King's death, "and taking his great reaſon from the examples of Daniel and Nehemiah, who being "captive, accepted of the call of their oppreſſors, that they might be in capacity to deal "for the ſervice of, and relief of their country, he does conclude with a deſire that the "Earl of Lauderdale would interpoſe for his pardon and reception into his Majeſty's fa-"vour, and reſtoration to his place, engaging all fidelity and loyalty to his Majeſty. My "Lord Lauderdale will be loth to undertake ſuch an employment as he would put upon "him; and if he expects to keep his place, or be received into favour, ſure he is much "deceived. The King bears no good will to any of that party; and for him, if he eſcape "ſomewhat elſe than the loſs of his place, I believe he will have good luck," *Letter, 2d June 1660, Mr James Sharp to Mr Robert Douglas, in the Library of the Church of Scotland.*

The Earl of Middleton thus writes to Sir Archibald Primroſe, Clerk-Regiſter, *3d February 1663.* "Mr Secretary Bennet, my Lord Dumfries, and myſelf, were taken up this "whole day with examination of Wariſton, and ſome others. He pretends to have loſt "his memory, and ſo will give no account of any thing. He is the moſt timorous perſon that "ever I did ſee in my life, and pretends he can do the King great ſervice, if he will give him "his life, in putting the regiſters in good order, and ſetting the King's prerogative from "old records." *MS. Advocates Libraray.*

See Warriſton's character, drawn by his nephew Biſhop Burnet, *Hiſtory of his own times, vol. 1. p. 28.* and an account of his execution, *ibid p. 203.* It is reported by Mr Wood-row, in his *Hiſtory of the church of Scotland*, that Warriſton's Memoirs, drawn up by him-ſelf in the form of a diary, are ſtill extant. If they *are* extant, they well deſerve to be pu-bliſhed; for he was perfectly acquainted with the tranſactions of that buſy and intereſting period, from 1638 to 1660.

Note

Note 63. *Sir John Gilmour, Preſident.*

His character as a pleader is thus drawn by Sir George Mackenzie, *Idea eloquentiæ forenſis :* " Sine ullo juris Civilis auxilio doctiſſimus, raro miraculo, dici poterat; ingenioque " ſuo praxin fori Scoticani juri etiam Romano æquabat. Illum jura potius ponere, quam " de jure reſpondere dixiſſes; eique appropinquabant clientes tanquam judici potius quam " advocato. Quaſi alter etiam Hercules nodoſa et nulla arte perpolita clava adverſarios " proſtravit ; ſine rhetorica eloquens, ſine literis doctus. Oppoſuit ei Providentia Niſbe- " tum, ut juſtitiæ ſcalæ in æquilibrio eſſent. Quoties conflixerunt, penes Gilmorium " gloria, penes Niſbetum palma fuit ; quoniam in hoc plus artis et cultus, in illo plus " naturæ et virium." It is hard to ſay what Sir George Mackenzie means by the antitheſis of *gloria* and *palma*.

The bold ſtand which he made in behalf of the Marquis of Argyle, will be ever remembered to his honour.

Note 64. *Sir Robert Murray.*

The firſt preſident of the Royal Society. He was the patron of Biſhop Burnet, who gratefully celebrates him in the 1ſt volume of the hiſtory of his own times.

Note 65. *Sir George Mackenzie of Tarbet, removed.*

He was removed on account of the ſhare which he had in the famous act for incapacitating by ballot, commonly called *the act for billetting*. He was afterwards reſtored to favour, as the King's letter to the court of ſeſſion bears, *27th September* 1678 : " Conſi- " dering how before that, and even in the worſt of times, he had, on all occaſions, evi- " denced an entire loyalty and fidelity to us ; and that ſince he has not only ſhewed a du- " tiful acquieſcence to our will, and his grief for the wrong he had committed in that af- " fair, but alſo that he hath laid hold on all fit opportunities to demonſtrate his conſtant " duty and loyalty to us, and *affection to our miniſter*, [Lauderdale], whom he had inju- " red; and upon narrower ſearch into his deportment, finding, that in the fault commit- " ted by him, he was not only induced, but commanded, to it by our then Commiſſioner, " [Middleton], and ſeverals of our principal officers, as the inſtructions given to him, and " other authentic papers, have evidently made appear unto us," *&c.*

In 1678 he was made Juſtice-General; 1681 Lord Regiſter; 1685 Viſcount Tarbet; 1692 again Lord Regiſter; 1702 Secretary of State; 1703 Earl of Cromarty. He was alſo reſtored to his office of Juſtice-General; which in 1710 he reſigned, upon a compromiſe, to Archibald Earl of Ilay.

Note 66. *Sir Robert Nairne of Strathurd.*

He was a diſtinguiſhed Royaliſt, and on that account ſuffered a ten years impriſonment in the tower of London, from 1650 to 1660. He was created Lord Nairne in 1681.

Note

Note 67. *Mr Robert Burnet of Crimond.*

He married Rachel Johnſton, Lord Warriſton's ſiſter. Her mother, Eliſabeth, was the daughter of Sir Thomas Craig. He publiſhed an edition of his grandfather's celebrated treatiſe *De Feudis*. He left Scotland at the breaking out of the civil war in the reign of Charles I. and retired into France. See a ſpirited and elegant letter from him to his brother-in-law Lord Warriſton, *Memorials concerning the hiſtory of Britain, vol.* 2.

He was the father of Biſhop Burnet. See his character in the *Life* of the Biſhop, by Sir Thomas Burnet.

Note 68. *Mr James Roberton of Bedlay.*

His anſwer to the Preſident, upon being required to take *the declaration*, is remarkable: "I never had, nor have, any ſcruple to declare as is required by act of parliament concern-"ing the covenant, *except I ſhould, for popularity, belie my own conſcience*; ſo let me hum-"bly deſire your Lordſhips, that I be not accounted among the refuſers. My great age "and ſickneſs may ſhortly make an end of my ſervice; but it becomes me, in obedience to "the King his Majeſty, and your Lordſhips order, to ſpeak the truth before God."

Note 69. *Mr John Scougal of Whytekirk.*

He died on the 7th of July 1671. The Lords of Seſſion aſſiſted at his funeral, being attended by the advocates and writers in mourning, and having their maces carried before them.

Note 70. *Sir David Nevoy of Nevoy.*

He had been a profeſſor in St Leonard's college at St Andrew's. At his firſt admiſſion he was termed *Lord Reidie*.

Note 71. *Sir James Dundas of Arniſton, reſigned.*

He reſigned, becauſe he ſcrupled to take *the declaration*. His letter to the Preſident on this occaſion deſerves to be remembered: "I did ſome weeks ago ſend a demiſſion of my "place in the ſeſſion to the court, which I hope before this time is preſented to the King's "Moſt Sacred Majeſty, whereby I am altogether incapacitated to give obedience to the "Lords of Seſſion their commands put upon me as one of their number. This I hope "will excuſe me for not waiting upon their Lordſhips; and ſhall intreat their Lordſhips "may believe, that though I ſhall no more be able to ſerve them as a public miniſter, "yet I ſhall never omit any thing ſhall be in my power as a private man, whereby I may "witneſs the deep ſenſe I have of their Lordſhips civility and kindneſs to me while I had "the honour to ſit among them; which can never be forgotten by," *&c.*

Note 72. *Sir John Nisbet of Dirleton.*

"A man of great learning, both in law, and in many other things, chiefly in the Greek "learning. He was a person of great integrity, and always stood firm to the law." *Burnet's History, vol. 1. p. 279.*

Sir George Mackenzie thus delineates his character as a pleader. "Oppositit ei [Gilmo- "rio] providentia Nisbetum; qui summa doctrina consummataque eloquentia causas age- "bat, ut justitiæ scalæ in æquilibrio essent: nimia tamen arte semper utens artem suam "suspectam reddebat. Quoties ergo conflixerunt, penes *Gilmorium* gloria, penes *Nisbetum* "palma fuit; quoniam in hoc plus artis et cultus, in illo plus naturæ et virium."

Some idea may be formed of his character of a judge from the following passages in his works. "Nihil quidem a religione judicantis magis alienum est quam προσωποληψια, ea divino "et omni jure vetita, ægre tamen vitatur: et quod de Marte, et Venere, et de Vulcani vin- "culis occultis sed tenacibus in fabulis est, verum est de affectibus animum impedientibus, ne "verum et justum cernere possit: imo ubi lex et regula haud deest, interdum instar Les- "biæ, colore aliquo eo torquetur, quo affectus impellit." *De Feodo pecuniæ et nominum: Doubts, p. 65.*

— "I have often urged, that favour is not *nomen juris*, and law ought to be uniform, and "not *Lesbia regula*, pliable and variable upon pretences of favourable and not favourable; "*sed nunquam credita Teucris Cassandra.*" *24th July* 1666, *Petrie against Rickart. Decisions, p. 12.*

Sir John Nisbet was the son of Patrick Nisbet of Eastbank, Lord of Session in 1636. He was appointed King's Advocate, 4th November 1664, upon the demission of Sir John Fletcher. He was the last person who held at one time the offices of Lord of Session and King's Advocate.

His *Doubts*, methodised by Sir William Hamilton of Whitelaw, and his *Decisions*, from 7th December 1665 to 26th June 1677, were published by Mr Robert Bennet, Advocate, 1698.

There are interpolations in his *Doubts*. See the title, "Reduction *ex capite lecti*," *p.* 150. where mention is made of a decision, "*Davidson against Davidson, November* 1687," although Dirleton died in 1678. There can be no mistake as to the date of the decision; for both the case and the argument are stated at great length by Harcarse, title, *Lectus ægritudinis*; and the decision is there marked as pronounced between the parties in November 1687.

Note 73. *Marquis of Montrose.*

To distinguish him from his *great* predecessor, he obtained the more amiable appellation of *the good Marquis*; and by that he is still affectionately remembered in Scotland.

Note 74. *Sir Peter Wedderburn of Gosfoord.*

He was sole Clerk of Privy Council. He drew up "Decisions of the court of session," from 1st June 1668 to the end of July 1677, MS. His amiable character is thus drawn by Sir George

George Mackenzie. " Wedderburnus morum probitate judices clienti conciliabat, dicendique ſuavitate eos corrumpere potuiſſet, ſi voluiſſet: *nihil autem ille in facto, niſi quod verum*, nec in jure, niſi quod juſtum, pathetice urgebat. Ciceronis lectioni ſemper incumbebat; unde illi dicendi genus uniforme et flexanimum: ex junioribus tamen nullus illum imitari poterat, ſicut ille Ciceronem; eloquium materiam, actio eloquium decorabat, famaque fugientem proſequebatur."

Fountainhall ſays, vol. 1. p. 48. 3d June 1679, " Preſident Stair being at London, the Lords, according to their cuſtom, and the warrant given them by the 93d act, parl. 1579, elected *Lord Gosfoord* Vice-Preſident. Some thought that Collington or Strathurd, as the eldeſt ſenators, might preſide, conform to the 93d act, parl. 1540; others that the King might name one to ſupply the Preſident's place in his abſence, as was done in the 42d act, parl. 1537."

Note 75. *Mr Charles Maitland of Halton.*

The manner of his admiſſion is ſingular. The Lords appointed two of their number " to confer with him *concerning his literature*;" and upon their report admitted him.

Note 76. *Sir Thomas Murray of Glendoick.*

Concerning the admiſſion of Lord Forret and him Lord Dirleton thus ſpeaks, *Deciſions*, *p.* 71. 72. " The King's Majeſty having, by two letters to the Lords of Seſſion, preſented Mr David Balfour of Forret, and Mr Thomas Murray, both Advocates, to be Lords of Seſſion, it was moved by one of the Lords, that ſeeing, by the law and acts of parliament, thoſe who are to be admitted to be Lords of Seſſion ſhould be tried, therefore the trial ſhould be ſuch as is intended by the law; the very notion of trial importing at leaſt a ſerious, if not a ſtrict and exact way of trial."

" This was moved, becauſe that way of trial had become of late ſo perfunctorious, and *dicis cauſa*, that it was ridiculous, and in effect a mock-trial; ſome of the Lords being appointed to examine thoſe who were named by the King, and after they had aſked ſome trivial queſtions, having made report, that they found them qualified, albeit it was not only known to the examinators, but to all the Lords, and notour to the world, that they were altogether ignorant, both of law and practic, and did acknowledge it themſelves, not daring to expoſe themſelves to ſit in the outer houſe as Ordinaries, they prevailing with others of the Lords to go out and officiate for them, as curates."

After having mentioned the reaſons for this, Lord Dirleton adds, " It was anſwered, That the way of trial that had been for a long time, ſhould be continued at this time; and that the motion was upon ſome deſign.

" The mover did purge himſelf, upon oath, that he had no deſign, but to do duty; and did atteſt the Preſident, [Stair], that before this occaſion they had ſpoke often to that purpoſe; and did repreſent, that this is the fit time to put the law and ſtatutes in execution, the perſons named being Advocates, and perſons preſumed to be able to undergo the trial; ſo that it cannot be thought that there is any thing of deſign againſt their perſons; that it cannot be denied but the late way is abuſive, and *antiquitas erroris*, or *abuſus*, cannot be thought and pleaded to be cuſtom; that in the year 1629, the Lords, by an act of *ſederunt*, had renewed and ratified all the former ſtatutes anent the trial and admiſſion of the Lords, and ordained them to be obſerved; that ſince that time the troubles intervened,

" vened, and continued long; ſo that preſcription cannot be pretended for an abuſe which
" had occaſioned ſo great prejudice and clamour.
" It was carried, that the examination ſhould be as it had been of late; and upon the re-
" port of Gosfoord and Craigie, appointed to examine them, they were admitted. Gosfoord
" was of opinion that there ſhould be another way of trial."

Note 77. *Earl of Argyle.*

See Fountainhall, vol. 1. p. 160. The hiſtory of this eminent perſon is known; but it is not generally known that he was a man of pleaſantry. He writes thus to Sir Archibald Primroſe, Clerk-Regiſter, 1ſt September 1663. " You have now, —in your hands, not for
" ſculdudrie, the old fault of the houſe, elſe I ſhould not interpoſe, he would make ſhift
" for friends; but for a leſs gentlemanny crime, theft; which, if he were guilty of, it need-
" ed not come this length. Pray play him fair play, and make not him the only example of
" [for] ſuffering thieves to live near him." *MS. Advocates Library.*

Sir George Mackenzie, King's Advocate, inſiſted, that the Earl of Argyle ſhould be executed, in conſequence of the ſentence formerly pronounced againſt him for explaining the *Teſt.* The ſecret reaſon of this was, That Sir George conſidered that ſentence as ſo flagrantly unjuſt, that it could not fail of being reverſed upon a change of miniſtry; whereas, if the Earl had been tried and condemned for riſing in arms, the ſentence could not in all probability have been reverſed, unleſs upon a change of government. Of the truth of this anecdote the publiſher has been aſſured by the relations of the Noble family of Argyle.

Note 78. *Sir Alexander Seton of Pitmedden, removed,* 1686.

The account which he himſelf gives of this event is curious. " There were great pains
" taken to bring over Pitmedden to the court-ſide; and the Lord Maitland, then Popiſh,
" and many others, were ſent by the King's commiſſioner to deal with him; and further
" preferments were offered, on condition he would but forbear to argue for the penal laws.
" To which he anſwered, He was bound by the oath of parliament to give faithful counſel,
" as well as faithful vote; and being impregnable, the letter [of diſmiſſion] was produced
" againſt him; but not till he was acquainted of it, and had refuſed even to go to ſpeak
" with the Preſident of the Seſſion, to whom the production of the letter was committed.
" And it is further to be obſerved, that after production divers perſons of quality were
" ſet on him to come back to his place, on condition of compliance in time to come; and
" to this end the King, who had preferred Pitmedden to be a Lord of Juſticiary, for his
" parts, and ſuffering for the Royal family, did forbear to preſent a ſucceſſor to him in the
" ſeſſion till 5th February 1687; and the convention of eſtates, *anno* 1689, made this and
" ſome other overturning of judges one of the cauſes of depoſing King James from his
" royal dignity. Further, King James, after his exile, was heard, both in Ireland and
" France, to regret his carriage to Pitmedden, and to blame his Queen for it.
" St Bazil being invited by Modeſtus, by command of Valens the Emperor, to turn
" Arian, with a promiſe of rewards, and threatened with puniſhments if he turned not,
" anſwered, *Rewards were fit to tempt children, and threats to terrify cowards.*" Theodoret, Hiſt. Eccleſ. l. 4. c. 17. *MS. Notes to the Acts of Sederunt.*

Lord

Lord Fountainhall obſerves, " That in the parliament 1686, of all the judges, Pitmed-
" den only, like Athanaſius, oppoſed the court." *Vol.* 1. *p.* 447.

The King's letter to the court of ſeſſion, intimating his diſmiſſion, bears, That " we have
" removed him *for reaſons beſt known to ourſelves.*"

Lord Pitmedden publiſhed a treatiſe *of mutilation and demembration,* ſubjoined to the ſe-
cond edition of Sir George Mackenzie's *Law of Scotland in matters criminal, fol.* 1699. This
treatiſe ſhews that the author had *read* many books.

Note 79. *Sir George Gordon, Preſident.*

A new commiſſion, under the great ſeal, was at this time granted to the Lords. On
this occaſion Lord Pitmedden, *MS. notes on the Books of Sederunt,* obſerves, that " it
" makes their places, which, by the act of James VI. were *ad vitam vel culpam,* become
" arbitrary; and therefore I oppoſed it, and afterwards found the fruits of it, when I was
" turned out of my place, as one of the number, for no other cauſe, but the oppoſition
" I made to toleration of Popiſh idolatry, in the parliament holden *anno* 1686."

Note 80. *Sir David Falconer of Newton, Preſident.*

He drew up *Deciſions of the court of Seſſion,* from November 1681 to 9th December
1685, the very laſt day of his ſitting in court, *Fountainhall, vol.* 1. *p.* 382. They were pu-
bliſhed in 4to, 1701, by Mr John Spottiſwoode, Advocate.

Note 81. *Sir George Nicolſon of Kemnay.*

" Two Lords were appointed to examine him, and report; which they did; and he in
" the afternoon was ſworn and received. Some doubted how this could be done, when the
" late act of ſederunt 1674 ordains he ſhould ſit a week in the outer houſe, *&c.* Some ſay,
" the King's letter expreſsly diſpenſed with this formality. [A miſtake. The letter bears,
" *effectually to try*]. We ſaw it, in October and November 1681, paſſed over and neglected
" in the admiſſion of Drumcairn and Boyne; only it may be ſaid, they came in by virtue
" of a new commiſſion from the King to the whole Lords." *Fountainhall, vol.* 1. *p.* 186.

Note 82. *Sir Patrick Lyon of Carſe.*

He had been a profeſſor of philoſophy in the Old college of St Andrew's, and afterwards
admiral-depute. He drew up the *Deciſions of the court of Seſſion* from November 1682 to
July 1687. *MS.*

Note 83. *Sir George Lockhart, Preſident.*

January 17. 1658. He was appointed, during life, Advocate to Oliver Cromwell.

" He was the moſt learned lawyer and the beſt pleader I have ever yet known in any nation;
" and he had all the lawyers almoſt in a dependence on him." *Burnet's Hiſtory, vol.* 1. *p.* 370.

" Lockartius corpus alterum juris Civilis, alterque Cicero dici poterat. Illi etiam peculiare " erat argumenta ſua eo ordine diſponere, ut tanquam lapides in fornice alter alterum " ſuſtineret; quæ ex improviſo, dum oraret, ei ſuggerebantur, prompta ſolertia indicabat, " aptiſque locis diſponebat. Nihil ab eo abſcondit jurisprudentia, et quamprimum caſus " illi a cliente aperiretur, ſua omnia, omniaque adverſarii, argumenta retexebat, et in ipſam " ſententiam qua definienda erat cauſa, penetrabat. Iracundia, quæ alios oratores turba- " bat, eum tantum excitare ſolebat; vocem tamen latratu, vultumque rugis deformabat." *Sir George Mackenzie.*

Note 84. *William Duke of Hamilton.*

" The Duke of Hamilton, during laſt vacation, was received as an extraordinary Lord " of Seſſion, in Queenſberry's place; then laid aſide. This practice came in with the ſe- " ven months vacance, when Newton was made Preſident, and Kemnay a Lord in his " place, in May 1682: for they thought it not ſafe to delay their letters of admiſſion till " November. *Multa cadunt inter calicem ſupremaque labra.*" *Fountainhall.*

Note 85. *Mr Alexander Swinton of Merſington.*

On occaſion of the two promotions at this time *Fountainhall* ſays, *vol. 1. p.* 505. " The " King divided his favours between the Preſbyterians and the Papiſts." Lord Merſington " was a zealous Preſbyterian.

Note 86. *Sir John Maitland of Ravelrig.* Afterwards Earl of Lauderdale.

Note 87. *Lord Polwarth.* Afterwards Earl of Marchmont.

Note 88. *Sir Alexander Campbell of Ceſnock.* By the death of his elder brother; Lord Polwarth; afterwards Earl of Marchmont.

Note 89. *Mr James Elphingſton of Coupar.* Afterwards Lord Balmerino.

The Hiſtorical Notes could not with propriety be continued down to a more recent period. There is however one circumſtance, relating to the late Preſident Dundas, which the Publiſher will be permitted to mention: Preſident Dalrymple ſaid, " I knew the great " lawyers of the laſt age, Mackenzie, Lockhart, and my own father, Stair; Dundas excels " them all."

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